TABLE OF CONTENTS
IV#2125207

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
IV #2125207

Subjects: [redacted], **Deputy Sheriff,** [redacted]
[redacted], **Deputy Sheriff,** [redacted]
[redacted], **Deputy Sheriff,** [redacted]
[redacted], **Deputy Sheriff,** [redacted]
Sopheak Touch, Deputy Sheriff, [redacted]
[redacted], **Sergeant,** [redacted]

Date: **July 15, 2004, Thursday**

Time: **1500 hours**

Location: **Men's Central Jail (MCJ)**
441 Bauchet Street, Los Angeles 90012

On July 19, 2004, a criminal investigation by Internal Criminal Investigations Bureau (ICIB) investigator Sergeant Ron Schram was initiated. On December 5, 2004, the case was presented to the District Attorney's Justice System Integrity Division unit for consideration of filing. Deputy District Attorney William Johnson advised on February 11, 2005, that due to insufficient evidence, his office would not be filing charges in the matter.

The case involves allegations that the subject deputies used force on MCJ Inmate [redacted], bkg. #[redacted] (whose real name is "[redacted]."), on July 15, 2004, exceeding that which they reported to their supervisor, Subject Sergeant [redacted] Subject Touch came forward July 18, 2004, and informed Sergeant [redacted] that he and the other subjects used more force than was originally reported and some of the force was unnecessary and/or excessive, used while Inmate [redacted] was handcuffed. The ICIB investigation was initiated upon notification of this additional information. (Refer to **ICIB Supplemental Report, July 27, 2004, page** 4 of ICIB casebook).

The following are summaries of all subject and witness interviews conducted by Internal Affairs Bureau (IAB) and ICIB investigators, reference to subject interviews, and other documents, reports and materials documenting the incident.

INMATE [redacted] MEDICAL RECORDS

ICIB investigators obtained Inmate [redacted] medical records **(ICIB Exhibit W)** Medical Services Bureau for the period of April 20, 2004, through July 15, 2004. Records revealed the inmate was treated on July 8, 2004, at approximately 0515 hours, at the North County Correctional Facility's jail clinic. Inmate [redacted] stated he was involved in an altercation with jail inmates at MCJ on July 7, 2004.

He was examined by Physician Specialist, Doctor Maryam Mahallati, on July 8, 2004, at 1306 hours. Inmate [redacted] complained that he was hit on the right eye, right leg and left rib cage area. The doctor noted swelling and bruising to Inmate [redacted] right periorbital (right eye) and the left side of his rib cage and noted a long, healed scratch on his right leg.

1. On July 12, 2004, at 0740 hours, the inmate was treated at the L.A.County/USC Medical Center relating to an incident with deputies at the Clara Shortridge Foltz Criminal Justice Center. He was taken to L.A.C./U.S.C. Medical Center for treatment and was returned to MCJ on July 14, 2004, at 0330 hours. He told the nurse that deputies assaulted him and he complained about pain to his ribs, chest and right shoulder. The nurse noted bruising to Inmate [redacted] right eye, a contusion to his right rib area and an abrasion to the right iliac (groin).

2. Inmate [redacted] was subsequently treated on July 15, 2004, at 1613 hours, for injuries related to the July 15, 2004 investigation for O.C. spray to his face, ears and neck and complaint of pain to his jaw.

ICIB INVESTIGATION - WITNESS/SUBJECT INTERVIEWS

[redacted], Sergeant
MCJ-3000 Sergeant's Office - July 19, 2004

Sergeant [redacted] was interviewed in the MCJ-3000 Sergeant's Office by ICIB Sergeants Ron Schram and Robert Lopez on July 19, 2004, at 2002 hours, regarding his knowledge of the incident. Sergeant [redacted] stated that on P.M. shift of July 15, 2004, he was an extra sergeant and was contacted by Sergeant Allyn Martin, who asked him to handle a force investigation which had recently occurred in Module [redacted] Sergeant [redacted] supervised Floors [redacted] and [redacted] and he had not previously supervised [redacted] and [redacted].

He went to Module [redacted] and was contacted by Bonus I Deputy Leonard Lindenmayer, employee #[redacted], who briefed him on the force incident, telling him that Inmate [redacted] was resistive and involved deputies deployed O.C. spray. Sergeant [redacted] went to the holding cell where the inmate was detained and observed that he had mucus coming out of his mouth and nose, consistent with having been sprayed with Oleoresin Capsicum. He saw no other injuries. The sergeant, Senior Lindenmayer and Deputy [redacted] escorted the inmate to the MCJ Clinic for medical exam and treatment while Subject [redacted] videotaped the process. Once treated, the inmate was escorted back to [redacted] where he was interviewed by Sergeant [redacted] in the presence of Senior Lindenmayer, as Deputy [redacted] continued the video tape recording.

Sergeant [redacted] returned to the [redacted] booth and saw approximately five deputies inside. The lighting was very dim and he did not notice the name tags of the individuals in the booth. When he asked the deputies who was involved in the use of force on the inmate,there was a moment of silence with deputies turning their heads and looking at each other. However, there was no response. He repeated the question, asking who was involved. Deputy [redacted] responded by stating, "Well I guess we were all here Sarge." Then an unknown deputy addressed Deputy [redacted] and another deputy by stating, "You weren't here. Weren't you on [redacted]?" Both deputies responded by stating, "Yeah, that's right. I wasn't here."

Due to a lack of information, Sergeant [redacted] became frustrated and told the deputies that he was simply there to investigate the incident. He told the deputies, "When you guys get your stories straight, come and get me." Sergeant [redacted] related that he had previously conducted seven force investigations since assigned to MCJ. He perceived the lack of forthcoming information as a lack competence on the part of the involved personnel. He said he was later advised by Senior Lindenmayer regarding the identities of the involved deputies as Deputies [redacted], [redacted], Touch and [redacted]. He was in contact with the involved deputies several times during the shift in an attempt to expedite the completion of their reports.

Deputy Touch gave his account of his involvement in the force incident to Sergeant [redacted]. He told the sergeant that he was assigned to the [redacted] Floor and was walking towards the visiting area when he saw Inmate [redacted] spit in the hallway. He confronted the inmate about spitting and the inmate cursed at him. Deputy Touch handcuffed the inmate behind his back while in the main hallway. The inmate continued his abusive tirade, causing several deputies to assist Deputy Touch. One of the deputies suggested that they take the inmate back into Module [redacted].

Sergeant [redacted] said that Deputy Touch told him they escorted Inmate [redacted] toward "A" Row of Module 1700 (see **ICIB casebook, Exhibit O, Visio diagram of 1700/1750, marked pg. 98**). Touch was holding onto the inmate by the handcuffs, when the inmate became resistive and began moving back and forth, breaking free from Deputy Touch's grasp and turning and facing him. He said that he and Deputy [redacted] simultaneously deployed their O.C. and sprayed Inmate [redacted] in the face. Inmate [redacted] fell to his knees and onto his stomach. They picked the inmate up and placed him in what is termed a shower room (see ICIB **Exhibit O, Visio diagram of Room 120/Shower**, and **ICIB Exhibits C, D, E & F**, deputies' memoranda on force used/observed).

Sergeant [redacted] spoke with Deputy Touch three times during the evening and that the deputy told him he was inexperienced and did not know how to proceed with various reports. The sergeant directed a deputy to assist Deputy Touch with the completion of the Supervisors Report on Use of Force form (SH-R-438).

Sergeant [redacted] said Deputy Touch was off Friday and Saturday July 16 and 17, 2004, for regularly scheduled days off and returned to work on Sunday, July 18, 2004. At approximately 2100 hours on July 18, 2004, Sergeant [redacted] contacted Deputy Touch via the radio and requested he meet him in the [redacted] Floor Training Room. Sergeant Mejia said he did not audio tape record the statement made by Deputy Touch.

Sergeant [redacted] said he began a casual conversation with Deputy Touch by asking questions about Deputy Touch's Departmental experience. After explaining his background, Deputy Touch said something to the effect that Sergeant [redacted] knew what occurred with Inmate [redacted]. Deputy Touch became very solemn and serious and appeared as if he was going to cry. Sergeant [redacted] attempted to assure Deputy Touch that he did not know what he was thinking.

Sergeant [redacted] said Deputy Touch told him that he ([redacted]) had not been told the truth concerning the use of force on Inmate [redacted]. He further indicated the force memorandums submitted were not

truthful. He told Deputy Touch to tell him exactly what happened. Deputy Touch told him that on the night of the force incident, he was walking to the visiting area when he observed Inmate [redacted] spit on the floor of the main hallway. He handcuffed the inmate and was assisted by Deputies [redacted], [redacted] and [redacted]. He said that upon entering Module [redacted] from the sallyport, an unknown white deputy walked up and grabbed the inmate and pulled him aside. The deputy escorted Inmate [redacted] in the opposite direction of "A" Row. He said the deputies started punching Inmate [redacted] all over the body. Deputy Touch confirmed that Inmate [redacted] was not punched on the face. He said Inmate [redacted] was punched on the back, ribs and arms.

Sergeant [redacted] asked Deputy Touch if he assaulted Inmate [redacted] and Deputy Touch admitted that he had. Deputy Touch explained that initially, he was not involved in the assault, but the deputies looked at him as if to urge his involvement. Deputy Touch then slapped Inmate [redacted] on the back of the head and pulled his hair. Deputy Touch appeared emotionally drained and his voice lowered when Sergeant [redacted] asked about what happened next.

Deputy Touch told him that the white deputy who had taken control of the inmate had removed his O.C. spray and began spraying Inmate [redacted] on the face. The inmate was face-down on the ground. Touch said he did not know why the deputy O.C. sprayed the inmate. Sergeant [redacted] asked Deputy Touch if he O.C. sprayed Inmate [redacted] and said he had. He asked why Touch sprayed the inmate and Deputy Touch said he sprayed Inmate [redacted] with O.C. because the other deputies told him to spray the inmate. Deputy Touch said he heard someone say, "Let him bake there."

He said Deputy Touch told him that Deputy [redacted] came out of the control booth and grabbed one of Inmate [redacted] legs and began dragging him towards the shower area. Deputy Touch grabbed Inmate [redacted] other leg and assisted dragging Inmate [redacted] to the shower area where he was secured inside.

Sergeant [redacted] said Deputy Touch mentioned that he had been bothered by the incident involving Inmate [redacted] since it occurred. He told the sergeant that he was having difficulty sleeping and has lost his appetite. He said he has not been the same since the incident happened. He related that what was done to Inmate [redacted] was wrong and that he did not want to lose his job, but admitted getting caught-up in the incident. He ordered Deputy Touch not to speak to anyone regarding this disclosure and advised him they would speak on Monday, July 19, 2004.

Sergeant [redacted] did not report this information to the on-duty watch commander because his shift watch commander's, Lieutenant Bill Martin, shift had ended for the evening. Sergeant [redacted] elected to report Deputy Touch's disclosure to his P.M. Shift watch commander the next day. Sergeant [redacted] said that on July 19, 2004, at approximately 1400 hours, he advised Lieutenant Gilbert Aguilar, Employee #[redacted], concerning the disclosure made by Deputy Touch.

Sergeant [redacted] provided ICIB investigators with the original force package documentation which contained the Deputy's Use Of Force Reports authored by Deputies Sopheak Touch **(ICIB Exhibit C)**, [redacted] **(ICIB Exhibit D)**, [redacted] **(ICIB Exhibit E)** and [redacted] **(ICIB Exhibit F)**, in addition to a photocopy of an Inmate Injury Report **(ICIB Exhibit G)** , a photocopy of the Supervisor's Report On Use Of Force **(ICIB Exhibit H)**, Office Correspondence from Deputy Frieberg and Deputy Jones **(ICIB Exhibit I)** and the July 15, 2004, P.M. Shift in-service sheet.

Sergeant [redacted] said he spoke with Physician Specialist Medical Doctor Jesus L. Licuanan, #[redacted], who told him that he would request x-rays of the right side of Inmate [redacted] face. Doctor Licuanan said he did not believe Inmate [redacted] jaw was fractured based upon his examination.

[redacted], Sergeant - Re-Interview
MCJ [redacted] Floor Training Room - July 22, 2004

ICIB investigators re-interviewed Sergeant [redacted] at MCJ. He reiterated that upon learning of the force incident in [redacted], he responded to the module and looked at Inmate [redacted]. He detected the odor of O.C. spray in the air, when he responded on July 15, 2004. He described Inmate [redacted] face as red and swollen, consistent with O.C. exposure. He did not notify Lieutenant William "Bill" Martin regarding the force, as he did not have sufficient details to report at that time.

Sergeant [redacted] said that he believed he was conducting an O.C. spray investigation and nothing more. Inmate [redacted] presentation appeared consistent with O.C. spray. Sergeant [redacted] said that Inmate [redacted] complained of having a broken jaw from being punched in the head. Sergeant [redacted] said that it has been his experience that inmates commonly overstate and often lie regarding the extent of their injuries. Inmate [redacted] complained of being punched in the ribs and face, but he did not have any visible injuries consistent with his assertions. He lifted Inmate [redacted] shirt and saw no marks or redness. He did not see any injuries on Inmate [redacted] face consistent with having been pummeled. He described Inmate [redacted] face as bright red and his eyes were swollen shut.

> **IAB Note:** The x-rays were reviewed by Physician Specialist, Doctor Earl K. Landau, #[redacted] The results of the x-rays revealed no fractures to Inmate [redacted] face, mandible, or ribs (refer to a copy of the Radiology Exam Report, **ICIB Exhibit V**).

Based on Inmate [redacted] allegations of being struck on the face, Sergeant [redacted] understood he was investigating an allegation concerning significant force. He stated he made telephonic notification to the Internal Affairs Bureau on-call lieutenant (Lt. Seno) on July 16, 2004, at 1930 hours. Sergeant [redacted] said he understood that something was wrong, and he honestly did not know what to do with the information he just learned from Deputy Touch. He was aware that Lieutenant Martin was gone for the day and decided to report the information to the lieutenant the next day.

Much of the interview produced similar statements as in the first interview (refer to the July 22, 2004 ICIB interview under the supplemental reports second of the **ICIB casebook, beginning on page 30**).

TOUCH, Sopheak, Deputy
ICIB Interview - July 19, 2004 - MCJ 3000 Sergeant's Office

ICIB Sergeants Schram and Lopez interviewed Deputy Touch at MCJ. He was asked to tell the ICIB sergeants about the incident that occurred on July 15, 2004, involving Inmate [redacted] He said he saw the inmate spit on the floor of the main hallway near Module [redacted] He then provided information consistent with the Deputy's Use of Force form he prepared which indicated only the use of Oleoresin Capsicum spray. He denied any knowledge of additional force used on

Inmate [redacted]. He confirmed that Deputies [redacted], [redacted] and [redacted] assisted him to control and handcuff Inmate [redacted].

Sergeant Lopez reminded Deputy Touch that they (ICIB Sergeants Schram and Lopez) knew about the confession he made to Sergeant [redacted] on Sunday, July 18, 2004. Deputy Touch said:

> **"You want to know the truth, sir? Since you know, I will tell you the truth."**

He then admitted speaking to Sergeant [redacted] and admitted that he had a change of heart concerning the incident. Deputy Touch made a full disclosure to Sergeant [redacted] concerning the force used on Inmate [redacted]. The sergeant told him not to speak to anyone regarding the incident and he took this order literally. He was unaware of the fact that Sergeant [redacted] had spoken with us. Deputy Touch clarified that he provided the initial story based upon his last orders by Sergeant [redacted]. He said that he had difficulty sleeping after the incident and lamented his involvement in the incident.

Deputy Touch said he had been at MCJ for seven to eight months. He explained that he handcuffed the inmate and the situation was completely under control. Some deputies from Module [redacted] came and dragged the inmate into [redacted]. The deputies took the inmate down the hallway inside Module [redacted] where they (Deputies [redacted], [redacted] and [redacted]) "start to beat the shit out of him, okay, start to beat the shit out of him" (Inmate [redacted]). Deputy Touch clarified that he was standing in the back and was not involved in the assault on Inmate [redacted] He said:

> **"Me being a deputy, being new, standing in the back, okay, standing in the back--seeing that--now do you expect me to stand there and watch when everybody jumped him?"**

Deputy Touch said he felt peer pressure when the deputies looked back at him. He said he interpreted the look and expression to mean, "Aren't you going to do anything?" He confirmed no words were spoken to him to suggest participation. He said he approached Inmate [redacted] from behind, grabbed him at the top of his head with his left hand, pulled his head back and slapped the right side of [redacted] face with his right hand. He slapped Inmate [redacted] three or four times with his right hand. He said he was not wearing rubber gloves. Deputy Touch said he pulled Inmate [redacted] braided hair. He backed away and the inmate who was now on his knee. He said a big unknown white deputy elevated Inmate [redacted] The deputy took out his "O.C." spray and began spraying Inmate [redacted] Deputies [redacted], [redacted] and Touch also sprayed Inmate [redacted] with their "O.C." spray. Deputy Touch said, "It is a true fact."

Deputy Touch said Senior Lindenmayer called the deputies into the Module [redacted] booth and asked them to explain what had occurred. None of the involved deputies took full responsibility for the force they used.

ICIB investigators showed Deputy Touch the Deputy's Use Of Force Report he authored **(ICIB Exhibit C)** and he confirmed he wrote it. Senior Lindenmayer directed him to complete his force report and the Supervisor's Report On Use Of Force. Senior Lindenmayer directed him to speak with Deputies [redacted], [redacted] and [redacted] prior to writing the report. Deputy Touch does not believe the senior deputy had any knowledge of the assault on Inmate [redacted].

Deputy Touch said that after Inmate [redacted] was physically assaulted and sprayed with Oleoresin Capsicum, he laid on the floor. A black deputy (believed by ICIB investigators to be Deputy [redacted]) appeared and began to drag Inmate [redacted] by one leg. Deputy Touch grabbed the other leg and they dragged Inmate [redacted] to a shower holding cell. Deputy Touch said that earlier in the shift, Monday, July 19, 2004, Deputy [redacted] came to Module [redacted] and told him to "stick with the story," and to advise him that ICIB investigators were at MCJ conducting interviews regarding the incident.

When asked what "story" Deputy [redacted] was speaking about, Deputy Touch confirmed that Deputy [redacted] came up with the story that they each agreed they would tell supervisors and document in their individual reports regarding the force used on Inmate [redacted].

Deputy Touch confirmed that Inmate [redacted] was handcuffed during the entire incident. Deputy Touch said he did not see any visible injuries on Inmate [redacted] at the conclusion of the incident. He recalled that Inmate [redacted] face was very red as a result of the O.C. spray.

When he was asked why he did not tell Sergeant [redacted] the truth on the night of the incident, he said he was confused and did not know what to do. The gravity of what occurred caused him great consternation causing him to make a full disclosure of the truth to the sergeant upon his return to work.

TOUCH, Sopheak, Deputy
ICIB Interview - July 20, 2004 - Re-Interview - MCJ Captain's Office

ICIB investigators re-contacted Deputy Touch and interviewed him. They explained the dynamics of a pretext telephone call to him and told Deputy Touch that they wanted him to place telephone calls to Deputies [redacted], [redacted] and [redacted] regarding the force investigation, in an effort to obtain additional corroboration of his allegations.

On July 20, 2004 at approximately 1335 hours, Deputy Touch placed a telephone call to Deputy [redacted] who was working in the hospital area of Men's Central Jail. For specific details of the conversation, refer to the transcription of the telephone call **(ICIB Exhibit J)**. Deputy Touch attempted a pretext telephone call to Deputy [redacted] and was unsuccessful, as there was no answer. He attempted a pretext telephone call to Deputy [redacted] which was unsuccessful due to out dated telephone numbers.

Deputy Touch reviewed four photographic "Mug" Show-Up folders of the involved deputies (**ICIB Exhibit K**). Deputy Touch reviewed Folder #1 and identified the photograph in position #6 as Deputy [redacted]. He then reviewed Folder #2 and was unable to make a positive identification, however, he said the photograph in position #4 looked like Deputy [redacted] He reviewed Folders #4 and #5 and was unable to identify anyone in the photographs. Deputy Touch said he knew Deputy [redacted] and Deputy [redacted] by sight. He said he was unfamiliar with Deputy [redacted]. Deputy Touch was then asked follow-up questions to the initial interview. He said that he initially had control of Inmate [redacted] as they entered the sallyport of [redacted] He said that he released control of Inmate [redacted] as the other deputies took control. He recalled the interior jail gate being

closed. He did not know who opened the gate. He recalled a deputy he described as "a big [unknown] Caucasian deputy" directing Inmate [redacted] down the hallway inside of [redacted].

He could not recall anything being said by the deputies during the incident. He recalled telling ICIB that one of the deputies looked at him in a certain way, causing him to assault Inmate [redacted], but he was unable to identify the deputy who appeared to stop and look at him.

[redacted]

He stated that deputies did not use flashlights or other impact objects to hit the inmate. He said that Deputy [redacted] was the first deputy to deploy O.C. spray and he (Touch) was the second deputy to deploy O.C. spray. Deputies [redacted] and [redacted] then followed by deploying their O.C. spray. He confirmed that all four deputies sprayed Inmate [redacted] with O.C. spray.

Deputy Touch said the deputies were spraying Inmate [redacted] at a very close proximity to his ([redacted]) face and sprayed in bursts of five to six seconds. He stated the actual length of duration that he sprayed Inmate [redacted] was longer than he indicated in his written force report. He stated he believed Department policy specified deployment in bursts of two to three seconds in duration.

He said that Deputy [redacted] sent him a copy of his Deputy's Use Of Force Report via Department e-mail. Deputies [redacted] and [redacted] handed Deputy Touch their Deputy's Use Of Force Report in person. Deputy [redacted] told Deputy touch to make certain that the reports were consistent. Deputy Touch said that he received the other deputies' force reports prior to completing his report. He said he used their reports as a guide to complete his report. He said that he did this to attain uniformity, as directed by Deputy [redacted]. The reports were subsequently submitted to Sergeant [redacted].

TOUCH, Sopheak, Deputy
ICIB Interview - July 30, 2004 - Re-Interview - ICIB Conference Room

Deputy Touch was re-interviewed at ICIB offices. As Deputy Touch had been relieved of duty, he was asked if he was represented by an attorney and he said he was not.

Deputy Touch was shown a Visio diagram (**ICIB Exhibit T**) of [redacted] and corresponding photographs (**ICIB Exhibit N**) and asked him to identify where specific events occurred on July 15, 2004, involving Inmate [redacted]. He indicated that 15 inmates were lined-up in the main hallway on the wall opposite from the [redacted]. He said Inmate [redacted] was directed to the wall between the [redacted] door and the [redacted] elevator sallyport. Inmate [redacted] was taken inside [redacted] and escorted to "A" Row of [redacted]. He looked at two pages of photographs, referenced photograph "A," and stated that Inmate [redacted] was pushed against the wall and door of [redacted] "A" Row. He placed an "X" on the diagram depicting where the incident took place. He said the inmate was pushed into the corner and assaulted. He also indicated the approximate location where Deputy [redacted] began dragging Inmate [redacted] by the leg and the location where he assisted dragging Inmate [redacted] to the holding cell (Room [redacted]).

> **IAB Note:** The locations mentioned by Deputy Touch were in view of the inmates in the Main Hallway but once deputies escorted Inmate [redacted] into the [redacted] module, he and the deputies were not in their view.

Deputy Touch said that after securing Inmate [redacted] in the holding cell, he saw Senior Lindenmayer standing in the hallway between the [redacted] Control Booths. He placed an "X" on the diagram depicting the location he saw Senior Lindenmayer. Deputy Touch signed and dated the Visio diagram, which is included as **ICIB Exhibit T**.

> **IAB Note:** Deputy Touch said that on July 19, 2004, Deputy [redacted] came to Module [redacted] and told him that I.C.I.B. was at MCJ and investigating the incident concerning Inmate [redacted]. Deputy [redacted] told Deputy Touch to stick to the story.

TOUCH, Sopheak, Deputy
ICIB Interview - September 30, 2004 - Re-Interview - IAB

Deputy Touch was interviewed again by ICIB investigators to clarify some points. He was asked about a statement he attributed to Deputy [redacted] The statement was, "Stick to the story" and what that statement meant to him. He said he recalled that Deputy [redacted] came to [redacted] and told him to "stick to the story." He said he understood Deputy [redacted] statement to mean for him (Touch) to not deviate from the information he reported verbally and documented in his report. He explained that they (Deputies [redacted], [redacted] and [redacted]) went into the [redacted] Control Booth and spoke to Senior Lindenmayer. He did not know if Deputy [redacted] was present, as there were other deputies present in the booth.

Senior Lindenmayer asked the deputies what happened and Deputy [redacted] told Senior Lindenmayer the events that led up to the force incident with Inmate [redacted] Deputy [redacted] reported using O.C. spray on Inmate [redacted] due to his uncooperative behavior. Deputy Touch said he told Senior Lindenmayer that he also used O.C. spray on Inmate [redacted]. Deputy Touch said nothing was discussed between them prior to Deputy [redacted] reporting of the force incident to Senior Lindenmayer. He said he did not know beforehand what Deputy [redacted] was going to report.

He said that Deputy [redacted] verbal report of force to Senior Lindenmayer became the "story" which he understood he (Deputy Touch) would have to adopt and in fact documented in his report of force. Deputy Touch said Deputy [redacted] "story" also became Deputy [redacted]' and Deputy [redacted] story as evidence by their individual reports. Deputy Touch said this was based upon the fact that Deputy [redacted] report of force was a "story" and not the truth about what had occurred.

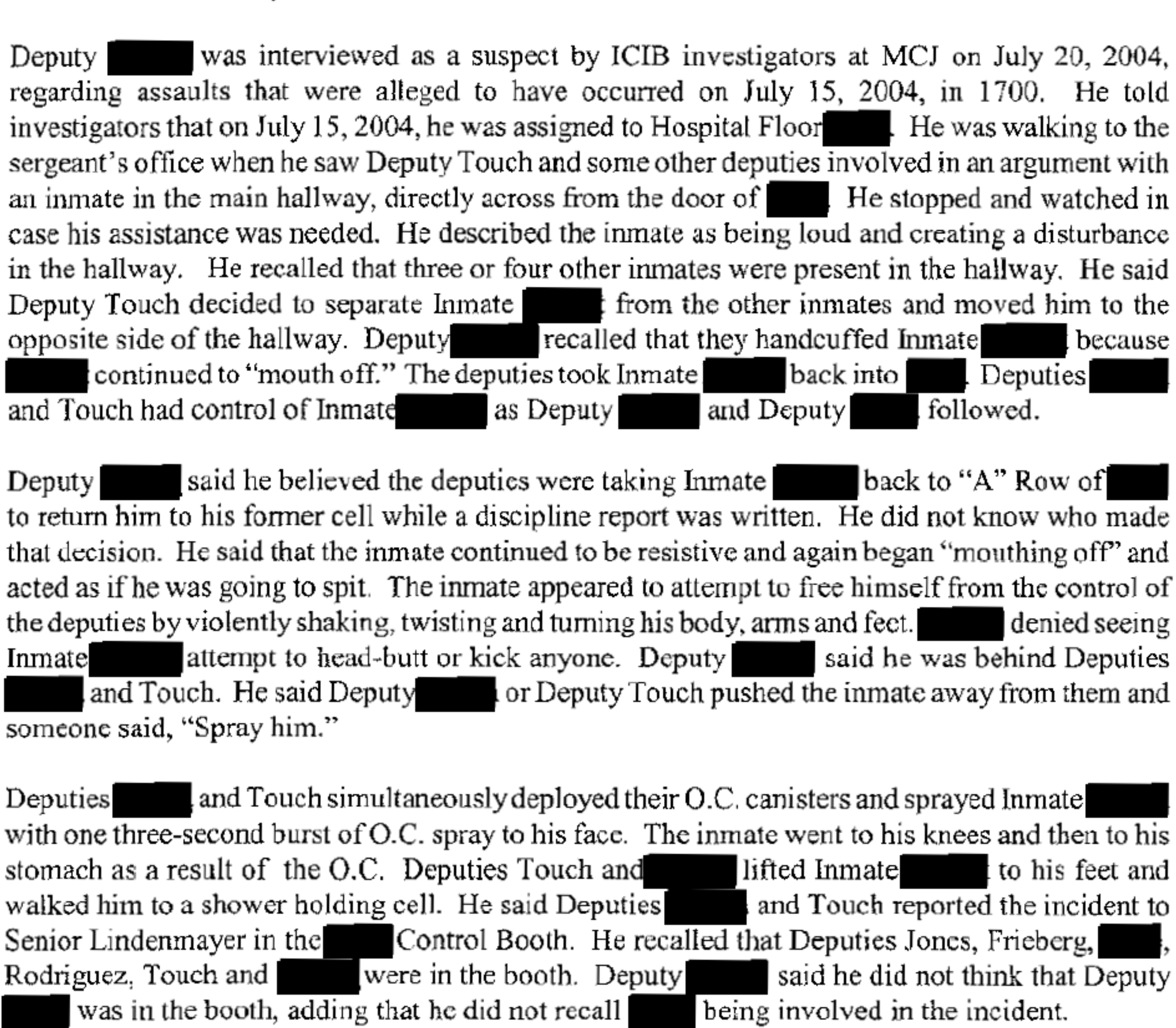
He was asked about a statement he made in the first interview by ICIB investigators regarding a "big Caucasian deputy." He said the "Caucasian deputy" he was referring to met them (Deputy [redacted], Deputy [redacted], Deputy Touch and Inmate [redacted]) at the sallyport gate. Deputy Touch did not know who the deputy was, and he was unable to describe him further.

I asked Deputy Touch if he knew how many deputies were present during the assault of Inmate [redacted]. He said he was uncertain but thought there were four or five deputies present.
When told that Senior Lindenmayer reported he observed Deputy Touch escorting Inmate [redacted] through the sallyport into [redacted] and that he (Deputy Touch) was holding or controlling Inmate [redacted] by the handcuffs, Deputy Touch denied this.

[redacted], #[redacted], Deputy
ICIB Interview - July 21, 2004 - MCJ

ICIB investigators contacted Deputy [redacted] at MCJ and informed them they wanted to interview him. They told him that he could have an attorney or other representative present during the interview and that he was free to leave at any time. Deputy [redacted] stated he wanted to make a telephone call and after completing the call, he invoked his right to remain silent at the direction of his A.L.A.D.S. attorney. The contact was immediately concluded after they admonished him not to speak to anyone other than his attorney regarding the investigation.

[redacted], Deputy
ICIB Interview - July 20, 2004



Deputy [redacted] was interviewed as a suspect by ICIB investigators at MCJ on July 20, 2004, regarding assaults that were alleged to have occurred on July 15, 2004, in 1700. He told investigators that on July 15, 2004, he was assigned to Hospital Floor [redacted]. He was walking to the sergeant's office when he saw Deputy Touch and some other deputies involved in an argument with an inmate in the main hallway, directly across from the door of [redacted]. He stopped and watched in case his assistance was needed. He described the inmate as being loud and creating a disturbance in the hallway. He recalled that three or four other inmates were present in the hallway. He said Deputy Touch decided to separate Inmate [redacted] from the other inmates and moved him to the opposite side of the hallway. Deputy [redacted] recalled that they handcuffed Inmate [redacted] because [redacted] continued to "mouth off." The deputies took Inmate [redacted] back into [redacted]. Deputies [redacted] and Touch had control of Inmate [redacted] as Deputy [redacted] and Deputy [redacted] followed.

Deputy [redacted] said he believed the deputies were taking Inmate [redacted] back to "A" Row of [redacted] to return him to his former cell while a discipline report was written. He did not know who made that decision. He said that the inmate continued to be resistive and again began "mouthing off" and acted as if he was going to spit. The inmate appeared to attempt to free himself from the control of the deputies by violently shaking, twisting and turning his body, arms and feet. [redacted] denied seeing Inmate [redacted] attempt to head-butt or kick anyone. Deputy [redacted] said he was behind Deputies [redacted] and Touch. He said Deputy [redacted] or Deputy Touch pushed the inmate away from them and someone said, "Spray him."

Deputies [redacted] and Touch simultaneously deployed their O.C. canisters and sprayed Inmate [redacted] with one three-second burst of O.C. spray to his face. The inmate went to his knees and then to his stomach as a result of the O.C. Deputies Touch and [redacted] lifted Inmate [redacted] to his feet and walked him to a shower holding cell. He said Deputies [redacted] and Touch reported the incident to Senior Lindenmayer in the [redacted] Control Booth. He recalled that Deputies Jones, Frieberg, [redacted], Rodriguez, Touch and [redacted] were in the booth. Deputy [redacted] said he did not think that Deputy [redacted] was in the booth, adding that he did not recall [redacted] being involved in the incident.

Deputy [redacted] indicated that he spoke with Sergeant [redacted] in the watch commander's office. Deputy [redacted] said Sergeant [redacted] told him that Inmate [redacted] alleged that he (Deputy [redacted])

assaulted him and that he was beaten by deputies. Sergeant [redacted] was preparing a Supervisor's Report on Use of Force related to the incident and asked Deputy [redacted] about his involvement. Deputy [redacted] told Sergeant [redacted] that he did not use any force and only witnessed the force incident as indicated in his memo.

When ICIB investigators told Deputy [redacted] that Inmate [redacted] accused him ([redacted]) of punching him ([redacted]) on the face and ribs, Deputy [redacted] denied striking or slapping the inmate. He also denied pulling Inmate [redacted] hair or spraying him with O.C. spray. Deputy [redacted] was unable to explain why Inmate [redacted] would accuse him of assaulting him. He also denied witnessing Deputy Touch strike or slap Inmate [redacted], or pull his hair.

Deputy [redacted] said he and Deputy [redacted] did not spray Inmate [redacted] with O.C. He said that O.C. was the only force used on Inmate [redacted]. Deputy [redacted] could not recall if Inmate [redacted] said anything or if he yelled out after being sprayed with O.C. He did not know who was inside the module booths in [redacted] during the incident. Deputy [redacted] said that he did not know who might have witnessed the use of force other than himself and Deputies [redacted], Touch and [redacted]. [redacted] denied collaborating with Deputies [redacted], Touch or [redacted] regarding how they would report the facts of the incident.

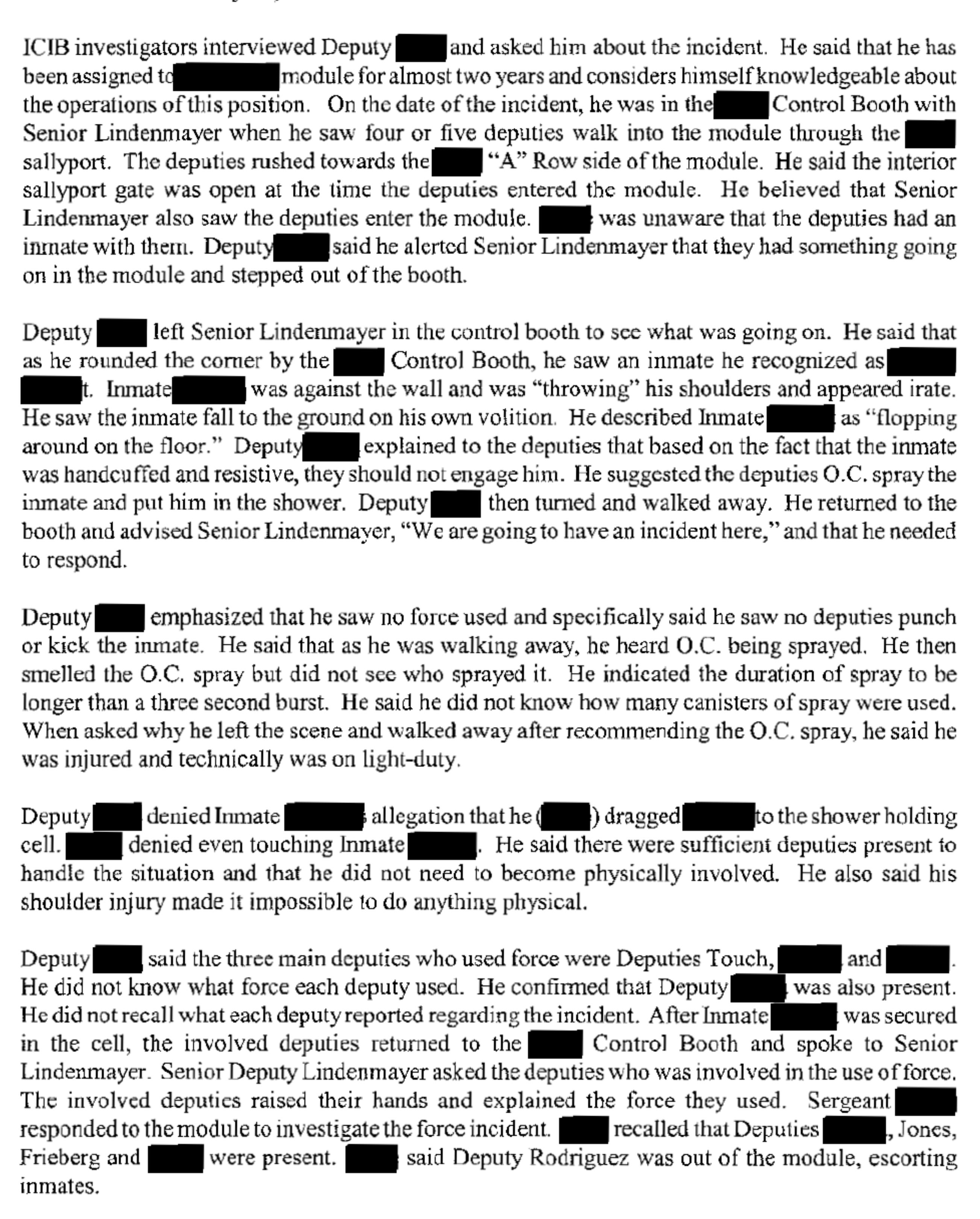
Deputy [redacted] said he completed his report the evening of the incident and e-mailed it to Deputy [redacted], who would forward it to Sergeant [redacted]. He thought he may have e-mailed the report to Deputy Touch, but he was not sure.

> **IAB Note:** Deputy Touch told ICIB and IAB investigators that Deputy [redacted] emailed him a use of force notification memorandum (at end of this narrative).

When ICIB investigators informed Deputy [redacted] that one of the involved deputies came forward and alleged that Deputies [redacted], [redacted], [redacted] and Touch assaulted the inmate, Deputy [redacted] denied punching or assaulting Inmate [redacted]. He denied spraying Inmate [redacted] with O.C. He also denied witnessing any of the deputies punch or assault Inmate [redacted]. Deputy [redacted] told investigators he did not know why a deputy would make such allegations. He said he could not imagine why a deputy would lie about something like that.

[redacted], #[redacted], Deputy
ICIB Interview - July 22, 2004 - MCJ

ICIB investigators contacted Deputy [redacted] and advised him that he was a suspect in an allegation of force by a public officer that occurred on July 15, 2004. They explained that he had the right to have an attorney or representative present during the interview. Deputy [redacted] also understood he was free to leave at any time and that he was not compelled to speak to us. Deputy [redacted] said he understood and invoked his right to remain silent, declining to speak the investigators. They did not question Deputy [redacted] further.



[redacted], Deputy
ICIB Interview - July 20, 2004 - MCJ

ICIB investigators interviewed Deputy [redacted] and asked him about the incident. He said that he has been assigned to [redacted] module for almost two years and considers himself knowledgeable about the operations of this position. On the date of the incident, he was in the [redacted] Control Booth with Senior Lindenmayer when he saw four or five deputies walk into the module through the [redacted] sallyport. The deputies rushed towards the [redacted] "A" Row side of the module. He said the interior sallyport gate was open at the time the deputies entered the module. He believed that Senior Lindenmayer also saw the deputies enter the module. [redacted] was unaware that the deputies had an inmate with them. Deputy [redacted] said he alerted Senior Lindenmayer that they had something going on in the module and stepped out of the booth.

Deputy [redacted] left Senior Lindenmayer in the control booth to see what was going on. He said that as he rounded the corner by the [redacted] Control Booth, he saw an inmate he recognized as [redacted]. Inmate [redacted] was against the wall and was "throwing" his shoulders and appeared irate. He saw the inmate fall to the ground on his own volition. He described Inmate [redacted] as "flopping around on the floor." Deputy [redacted] explained to the deputies that based on the fact that the inmate was handcuffed and resistive, they should not engage him. He suggested the deputies O.C. spray the inmate and put him in the shower. Deputy [redacted] then turned and walked away. He returned to the booth and advised Senior Lindenmayer, "We are going to have an incident here," and that he needed to respond.

Deputy [redacted] emphasized that he saw no force used and specifically said he saw no deputies punch or kick the inmate. He said that as he was walking away, he heard O.C. being sprayed. He then smelled the O.C. spray but did not see who sprayed it. He indicated the duration of spray to be longer than a three second burst. He said he did not know how many canisters of spray were used. When asked why he left the scene and walked away after recommending the O.C. spray, he said he was injured and technically was on light-duty.

Deputy [redacted] denied Inmate [redacted] allegation that he ([redacted]) dragged [redacted] to the shower holding cell. [redacted] denied even touching Inmate [redacted]. He said there were sufficient deputies present to handle the situation and that he did not need to become physically involved. He also said his shoulder injury made it impossible to do anything physical.

Deputy [redacted] said the three main deputies who used force were Deputies Touch, [redacted] and [redacted]. He did not know what force each deputy used. He confirmed that Deputy [redacted] was also present. He did not recall what each deputy reported regarding the incident. After Inmate [redacted] was secured in the cell, the involved deputies returned to the [redacted] Control Booth and spoke to Senior Lindenmayer. Senior Deputy Lindenmayer asked the deputies who was involved in the use of force. The involved deputies raised their hands and explained the force they used. Sergeant [redacted] responded to the module to investigate the force incident. [redacted] recalled that Deputies [redacted], Jones, Frieberg and [redacted] were present. [redacted] said Deputy Rodriguez was out of the module, escorting inmates.

Deputy [redacted] believed that the deputies explained their force in the Sergeant's Office and was certain that the force was not explained in the [redacted] Control Booth.

When asked if he made the statement, "Let him fry" or, "Let him cook," Deputy [redacted] said he might have said that, but he was not certain. He explained that the intent of his statement was meant to allow the inmate time to calm down. When asked if he said, "Shut the fuck up, bitch," he first denied making that statement and then commented that he may have said something like that. He said he talked to Inmate [redacted] for 10 minutes. He described the inmate as crying and "f-ing me."

Deputy [redacted] did not know why another deputy would say he dragged the inmate by the legs during the incident. He said he did not know Deputies Touch and [redacted] and could not recall ever having had a conversation with either deputy. He denied touching Inmate [redacted] and said the allegation of his involvement was not true.

Deputy [redacted] said he did not write a report as witnessing force because he did not actually witness force. He said Senior Lindenmayer advised him he would not need to write a report.

> **Note:** When investigators re-contacted Deputy [redacted] in the [redacted] Control Booth to re-interview him on July 29, 2004, he declined to speak without a representative present.

WITNESSES

RODRIGUEZ, Aaron, [redacted] Deputy
ICIB Interview - July 20, 2004 - MCJ 1700 Control Booth

ICIB investigators contacted Deputy Rodriguez regarding his knowledge of the incident in the 1700 Control Booth. He recalled he was in the main hallway to escort inmates and was with Deputy [redacted] and possibly Deputy [redacted]. He said Deputy Touch walked by and confronted Inmate [redacted] about spitting. Deputy Rodriguez said he did not witness Inmate [redacted] spit, but heard him call Deputy Touch a "motherfucker" and deny spitting on the floor. Deputy Touch directed the inmate to the opposite side of the hallway to separate him from the other inmates. Deputy [redacted] said he believed that Deputy Touch handcuffed the inmate. He said that the deputies (Touch, [redacted] and [redacted]) took the inmate into [redacted]. Deputy Rodriguez said he took that opportunity to escort the remaining inmates to Module [redacted].

Deputy Rodriguez returned to [redacted] after approximately 20 minutes and recalled Sergeant [redacted] questioning deputies in the control booth of [redacted]. He said Senior Lindenmayer and Deputies [redacted], [redacted], and [redacted] were present, but he was unable to recall who else was in the control booth. The sergeant asked Deputy Rodriguez if he was present during the force incident. Another deputy answered by stating that Rodriguez was not there. Deputy Rodriguez subsequently told Sergeant [redacted] that he was not present during the incident, as he was escorting inmates to Module [redacted]. Deputy Rodriguez said he was not clear on who was involved in the force incident or specifically who used O.C. spray. He said he has not heard any rumors about the incident.

LINDENMAYER, Leonard, [redacted] Bonus I Deputy
ICIB Interview - July 20, 2004 - MCJ

ICIB investigators interviewed Senior Deputy Lindenmayer. He told them there were specific unit orders relating to the operating procedures for [redacted]. Senior Lindenmayer explained that there are control booths for Modules [redacted] and [redacted]. The [redacted] Control Booth is required to be staffed at all times. The [redacted] Control Booth is only staffed when there are sufficient personnel. He confirmed that the [redacted] Control Booth is often not staffed due to personnel shortages. He said that during the P.M. shift of July 15, 2004, he was assigned as the Supervising Senior Deputy in Modules [redacted]. He supervised Deputies [redacted], Frieberg, J. Jones, [redacted], [redacted], and Rodriguez.

Senior Lindenmayer said he was sitting in the 1750 Control Booth while Deputies [redacted], Jones, [redacted], [redacted], and Frieberg prepared approximately seven or eight inmates for jail housing transfer. He confirmed that Inmate [redacted] was one of the inmates being transferred to Module [redacted]. He explained that they maintain an "Inmate Movement Log" which is affixed to the Title 15 log. I reviewed the original Inmate Movement Log for [redacted] thru 1751 (**ICIB Exhibit M**) that was dated July 15, 2004, and noted that Inmate [redacted] was one of six inmates being transferred to Module [redacted]. The time of the transfer indicated 1440 hours.

He said that while sitting in the control booth with Deputy [redacted], he (Senior Lindenmayer) saw Inmate [redacted] precede four deputies into the sallyport of [redacted]. The inmate was handcuffed and Deputy Touch had control of the handcuffs. Deputies [redacted], [redacted] and [redacted] accompanied Deputy Touch. The deputies escorted Inmate [redacted] towards Module [redacted] "A" Row in a rapid manner.

Deputy [redacted] exited the control booth without saying a word and followed after the deputies. Senior Lindenmayer thought the deputies were taking the inmate to "A" Row. He looked at the "A" Row security monitor and noted that the deputies had not entered the row. Senior Lindenmayer speculated that the deputies were in front of the [redacted] Control Booth, as they were completely out of his view.

> **IAB Note:** Senior Lindenmayer was not asked for the Internal Affairs Bureau administrative investigation why he did not respond rather than Deputy [redacted].

Senior Lindenmayer heard what he described as a painful scream. He began to call the watch sergeant's office to request a sergeant to respond when Deputies [redacted], [redacted], [redacted], [redacted] and Touch returned to the [redacted] Control Booth. Senior Lindenmayer hung up the telephone without speaking to anyone. He said that from the time the deputies entered the module until they returned to the control booth was very short and guessed that it was no more than 25 seconds. He smelled the odor of O.C. spray and asked the deputies what happened. He said the deputies had the initial appearance of a "deer in the headlights," as their faces were expressionless or non-responsive. Deputy [redacted] said that he O.C. sprayed the inmate. No other deputies reported force at that time.

He said the incident inside [redacted] was under control at that time. He became aware of a problem involving an inmate in the main hallway. He was informed that an inmate was refusing to be

transferred. He responded to the main hallway to prevent an additional incident. Senior Lindenmayer and Senior Gilbert resolved an issue with that inmate. Upon returning to the module, Senior Lindenmayer directed Deputy [redacted] to notify Sergeant Allyn Martin regarding the use of force. He said that Sergeant Martin requested Sergeant [redacted] to respond and conduct the use of force administrative investigation. Senior Lindenmayer briefed Sergeant [redacted] that Deputy [redacted] O.C. sprayed Inmate [redacted].

Senior Lindenmayer accompanied Inmate [redacted] to the jail medical clinic with Sergeant [redacted] and Deputies [redacted] and [redacted]. He was also present during the subsequent administrative interview. He heard Inmate [redacted] allege that Deputies [redacted] and Touch struck him. He said the video tape recording of the inmate's treatment and interview would more accurately reflect the inmate's allegations. The inmate complained that he was struck on the ribs, "pepper" sprayed and sustained a broken jaw. Senior Lindenmayer said he thought that the inmate alleged that Deputy [redacted] "bitch-slapped him."He recalled the right side of Inmate [redacted] face was swollen but he did not see any injuries to Inmate [redacted] torso.

Sergeant [redacted] was in the [redacted] Control Booth with Senior Lindenmayer and the involved deputies. Sergeant [redacted] told everyone that the report of force appeared inconsistent with Inmate [redacted] injuries. Sergeant [redacted] instructed Senior Lindenmayer to speak with the deputies and find out exactly what happened.

Senior Lindenmayer recalled Sergeant [redacted] asking the deputies to acknowledge their presence during the force. Senior Lindenmayer told him that Deputies Rodriguez and Frieberg were not present when the force occurred.

[redacted] Senior Lindenmayer said Deputy [redacted] never alerted him that he needed to respond to the incident, as indicated in Deputy [redacted] statement. Senior Lindenmayer said Deputy [redacted] returned to the control booth with the other deputies and not before, as stated in Deputy [redacted] statement. Deputy [redacted] told Senior Lindenmayer that the force was over prior to his arrival.

> **IAB Note:** Deputy [redacted] told IAB investigators during his interview that prior to leaving the booth, he told Senior Lindenmayer that something was going on outside the booth and he was going to check (refer to transcript of Deputy [redacted] interview).

Senior Lindenmayer told investigators the procedure for bringing an inmate into [redacted]. He said that when inmates are brought into the module, he is notified as to the reason and the inmate is secured in the shower/holding cell (see **ICIB Exhibit O, page 98,** module Visio diagram), pending processing.

Senior Lindenmayer` said that Deputies [redacted] Touch's, [redacted] and [redacted] actions of rushing the inmate directly to an isolated area out of the view of staff in the [redacted] Control Booth indicated to him that there was a problem. He did not know the nature of the problem, but he confirmed the deputies' actions were out of the ordinary. He added, "People just don't fly into [redacted] leading an inmate like that." He said he was unable to respond because Deputy [redacted] left the control booth,

stranding him. Unit policy requires one deputy to staff the control booth at all times, for security purposes.

He said Deputy Touch related that he had handcuffed Inmate [redacted] and was instructed by Jail Liaison Senior Gilbert to return Inmate [redacted] to [redacted] "A" Row.

Sergeant [redacted] instructed Senior Lindenmayer to talk with the deputies, get the story and get back with him. He described Sergeant [redacted] as frustrated or angry. Senior Lindenmayer contacted the deputies a second time in the control booth. He asked the deputies if anyone hit or kicked Inmate [redacted] and they said, "No." He then asked if anybody O.C. sprayed Inmate [redacted] and Deputy [redacted] admitted spraying the inmate. When asked by investigators if he was certain it was Deputy [redacted], he admitted he was not sure. He was only certain that a second deputy also admitted using O.C. spray. When shown the four deputies' Reports On Force memoranda, he said the information contained in the reports was consistent with what the deputies ultimately reported to him. After reviewing the reports, he said he now realized that Deputy Touch was the second deputy who reported using O.C. spray.

At some point in time, Senior Lindenmayer asked Deputy Touch why O.C. spray was required. Deputy Touch reported that Inmate [redacted] was being resistive and broke free from his grasp, at which time he was sprayed. Senior Lindenmayer notified Sergeant [redacted] about Deputy Touch's admission of O.C. spraying the inmate. He also related the deputies' denial of punching or kicking Inmate [redacted]. Sergeant [redacted] was not satisfied with the information reported by the involved deputies.

Senior Lindenmayer believed Deputy Touch was referring to the force incident involving Inmate [redacted] in Module [redacted]. Deputy Touch told Senior Lindenmayer that when they moved Inmate [redacted], they dragged him. Senior Lindenmayer reminded Deputy Touch that the deputies' report of the incident was that Inmate [redacted] was assisted to his feet and walked to the holding cell. Deputy Touch acknowledged that as correct. Senior Lindenmayer asked Deputy Touch how they moved Inmate [redacted] and he said they escorted him. Senior Lindenmayer said he did not ask Deputy Touch any further questions. Deputy Touch said nothing further about the incident.

Senior Lindenmayer said he saw Deputy [redacted] on the [redacted] Floor hallway between 2000 and 2030 hours. He asked Deputy [redacted] what he was doing on the 4000 Floor, knowing he was assigned to Module [redacted]. He said Deputy [redacted] related that he was there to see his partner, referring to Deputy Touch.

FRIEBERG, Robert, [redacted] Deputy
ICIB Interview - July 21, 2004 - MCJ

Deputy Frieberg told ICIB investigators who interviewed him that he worked P.M. shift on July 15, 2004. He recalled going into the main hallway to escort the group of inmates to Module [redacted] and [redacted] with Deputy Rodriguez. Deputy Frieberg said he was not in the main hallway when the incident occurred with Inmate [redacted] nor was he in Module [redacted] when the inmate was sprayed with O.C.

Deputy Frieberg said Sergeant [redacted] later came into the module and asked questions regarding the use of force. Senior Lindenmayer asked Deputy Frieberg to help Deputy Touch complete the Supervisor's Use of Force Report. It was at this time that Deputy Frieberg became aware that Deputies [redacted], [redacted], Touch and [redacted] were involved in the force incident. He said the only force he was aware of was O.C. spray. Deputy Frieberg said he has not spoken with any of the involved deputies regarding the incident.

JONES, Jonathan, [redacted] Deputy
ICIB Interview - July 21, 2004 - MCJ

ICIB investigators interviewed Deputy Jones regarding his knowledge of the incident. He told them that he was supervising inmate showers on "D" Row of [redacted]. When he was leaving the row, he heard screaming coming from "A" Row. He said he smelled O.C. spray in the air. He ran to "A" Row and saw Inmate [redacted] lying face down on the floor. Inmate [redacted] was handcuffed and yelling. He could not recall what Inmate [redacted] was yelling. He characterized the O.C. spray as being a lot. He saw Deputies [redacted], Touch, [redacted] and [redacted] in the immediate vicinity of the inmate. He did not recall where the deputies were positioned. He asked them if they needed any assistance and they said they did not. He advised the deputies he was returning to supervise showers at the other end of the module. Deputy Jones said he did not see Deputies Rodriguez or Frieberg in the area.

Deputy Jones said he went to the [redacted] Control Booth and notified Senior Lindenmayer regarding the force incident. He said Senior Lindenmayer acknowledged Deputy Jones and stated he could smell the O.C. Deputy Jones said he saw Deputy [redacted] in the control booth.

GILBERT, William "Bill," [redacted] Bonus I Deputy
ICIB Interview - July 19, 2004 - MCJ

ICIB investigators contacted and interviewed Senior Deputy Gilbert regarding his knowledge of the incident. He agreed to speak to them concerning criminal investigation. He told them his job function is to oversee state prison inmates and high security inmates housed in [redacted] He said that on July 15, 2004, he observed an incident near Module [redacted] involving Inmate [redacted] He said the inmate appeared to be giving the deputies a difficult time. He said there were three inmates facing the opposite wall. Senior Gilbert was unaware of what had taken place prior to walking into the main hallway. He formed the opinion that Inmate [redacted] was angry about being transferred from Module [redacted]

He said he did not know the deputies who were escorting Inmate [redacted], nor did he know the number of deputies directly involved with escorting Inmate [redacted]. He said he had no information regarding the allegation that Inmate [redacted] spit on the ground. He instructed the deputies to take Inmate [redacted] back to "A" Row of Module [redacted]. His attention was diverted to Inmate [redacted] who was on the opposite side of the hallway, with two other inmates. He said he did not witness any force or inappropriate conduct by the deputies escorting Inmate [redacted].

[redacted]

[redacted], bkg. #[redacted], MCJ Inmate
<u>MCJ Sergeant Interview</u> - July 15, 2004

Following an MCJ Clinic medical exam on July 15, 2004, Inmate [redacted] was returned to Module [redacted] where Sergeant [redacted] interviewed him in the presence of Senior Lindenmayer and Deputy [redacted] **(see summary of video-recorded interview later in this document)**. Inmate [redacted] related that he was awaiting transfer from [redacted] and was standing with several other inmates in the main hallway. A deputy accused him of spitting on the floor and he was told to face the wall. He said he faced the wall and was assaulted by deputies who punched him on the ribs. He was taken back into Module [redacted]/[redacted] Inmate [redacted] alleged that deputies deliberately took him to an out-of-the-way area where there were no witnesses and assaulted him. He said Deputy [redacted] directed deputies to spray him with Oleoresin Capsicum.

He said that Deputy "[redacted]" ([redacted]) started punching his right rib area and slapped him on the face. Deputy [redacted] was wearing latex gloves at the time. Inmate [redacted] said Deputy [redacted] punched him on the right side of his face twice with a "closed fist." He did not know which hand Deputy [redacted] used to punch him. Inmate [redacted] said he was slammed to the ground and Deputy [redacted] put his boot to his head. Inmate [redacted] did not state how the boot came in contact with his head. He was then dragged to the shower holding area. Inmate [redacted] was extremely emotional during this interview and appeared to cry several times. He denied resisting or being assaultive with deputies. Inmate [redacted] claimed he had fractured ribs on his left side from a previous altercation with deputies from the "C.C.B." (Criminal Courts Building).

> **IAB Note:** Refer to Inmate [redacted] Medical Records review summary at the beginning of this document.

[redacted], bkg. #[redacted], MCJ Inmate
<u>MCJ Watch Commander Interview</u> - July 17, 2004

Lieutenant William "Bill" Martin interviewed Inmate [redacted] on Saturday, July 17, 2004, in the presence of Sergeant [redacted] and Deputy [redacted]. The interview was video tape recorded. Inmate [redacted] calmly related essentially the same information that he reported during his medical treatment and interview with Sergeant [redacted] and added the following. He said that upon being taken into Module [redacted]/[redacted] deputies lifted him and rushed him down a hallway. Inmate [redacted] said that he

felt "closed fists" against his right rib cage and the right side of his face. He stated, "I remember Deputy [redacted] I'll never forget him. He said that's two Bs, don't forget. He [redacted] slapped the shit out of me. He gave me five solid punches to the face."

> **Note:** Inmate [redacted] was apparently referring to Deputy [redacted] as this investigation revealed there was no deputy by the name of [redacted] involved in the force incident with Inmate [redacted]

Inmate [redacted] alleged Deputy [redacted] told the other deputies, "Let him fry." Deputies sprayed Inmate [redacted] directly in the eyes with O.C. spray. Inmate [redacted] said he went to the ground and felt a couple of "boots" (striking unspecified locations on his body). He told Lieutenant Martin that while walking to the clinic, he was struck in the head by a door. Inmate [redacted] alleged injuries to the right side of his face, forehead, jawbone and right side of his rib cage. He told Lieutenant Martin that he was punched three times on the face and slapped twice across the face and on the back of his head. When he was slapped, he recalled hearing someone say, "Shut the fuck up, bitch." He added that deputies pulled his hair braids.

[redacted], #[redacted], MCJ Inmate
M/B/Adult
<u>ICIB Interview</u> - July 19, 2004

ICIB investigators interviewed Inmate [redacted] in an interview room at MCJ. The inmate said that he was booked under an alias of [redacted] and that his legal name is [redacted] He is referred to as [redacted] for the purposes of this investigation.

He said that on the date of the incident, he was housed in [redacted] on "A" Row. He and five other inmates were being declassified and scheduled to be moved from [redacted] to Module [redacted] He was handcuffed prior to exiting his cell in [redacted] He and the other inmates were lined-up in the main hallway awaiting escort. While standing in the hallway, an Asian deputy accused him of spitting on the floor. He reported the deputy said, "Don't be fuckin' spittin' dickhead." Inmate [redacted] said his response was, "I didn't spit asshole." The deputy told him to face the opposite wall directly next to the [redacted] Module door. Inmate [redacted] denied spitting but admitted being argumentative with the deputy.

> **IAB Note:** Deputy Touch is of Asian ethnicity and may be the "Asian deputy" Inmate [redacted] was referring to.

The inmate said a deputy, whom he referred to as Deputy [redacted] ran down the hallway to get involved and grabbed his arm. He then spelled "[redacted]." Inmate [redacted] heard someone say to take him ([redacted] back into [redacted] Approximately three deputies escorted him from the hallway into [redacted] He said they lifted him by his shirt at the shoulders and ran with him down the hallway inside [redacted] The deputies took him to the hallway in front of [redacted] between the shower and "A" Row. He was placed against a wall and then suddenly felt "shots" (punches) on the right side of his rib cage. When asked who was punching him, he said, "It was [redacted]" He could not describe Deputy [redacted]

but recalled looking at his name tag and hearing the deputy say, "That's two Bs motherfucker, don't forget."

Inmate [redacted] said he was certain it was Deputy [redacted] who was punching him on the right side because he looked at him. He said Deputy [redacted] punched him four times on the right rib cage area. He said he was also being punched by someone else whom he did not see. Inmate [redacted] shouted in pain and went down to a kneeling position. While in the kneeling position, he claimed Deputy [redacted] punched him on the face twice and slapped him across the right side of his face and on the back of his head. He said he interpreted the slap as "shut the fuck up, bitch." He then said, "That was his exact words, shut the fuck up bitch."

Inmate [redacted] said he saw the "Oriental" deputy and a "White" deputy behind him. He said one of the deputies was pulling his hair braids at the back of his head and from the front. He felt they were trying to loosen his braids. The inmate said he fell to the ground and immediately felt two to three kicks to his back and right side. He said it felt as if he was being kicked with the toe of a shoe. He said he was wearing a white jail T-shirt under his jail shirt. He said there was a black mark on his T-shirt as a result of being kicked by a deputy. He was unable to identify who kicked him. He told detectives he was certain he was face down on the ground at one point. He said he heard the deputies say, "Stop, stop, stop, stop, stop." He believed this was a warning that someone was coming.

He recalled hearing Deputy [redacted] say, "Let his ass fry." He said he was lifted and sprayed directly in the face. He believed Deputy [redacted] was the person who sprayed him, but could not be certain. He said he was dragged to the shower area and locked inside. He did not know who dragged him, as his eyes were burning from the O.C. spray. He recalled hearing Deputy [redacted] standing outside the gate of the shower. Deputy [redacted] said, "You're a little wimp. You're a little bitch. Shut the fuck up or I'll come in there and fuck you up some more." Inmate [redacted] asked Deputy [redacted] why he let the deputies spray him. He said Deputy [redacted] admitted telling the deputies to spray him.

He said he could not remember exactly, but knew he had taken numerous punches to his back. He said he could not identify who was punching him other than Deputy [redacted] He believed Deputy [redacted] punched him but he could not be certain. He said he was left in the shower area for approximately one hour prior to being taken to the clinic for medical treatment.

> **IAB Note:** A review of documents associated with the incident indicate that the incident occurred at approximately 1500 hours. The LASD Medical Services medical records of treatment provided to Inmate [redacted] for July 15, 2004, documented the time of treatment as "1613 hours." It is not known if this is when the nurse charted his treatment afterward, or if the noted time was when treatment began. However, the watch commander's video recording shows the inmate being escorted from 1750 to the clinic and being interviewed and was verbally noted as taking place at 1535 hours.

He told investigators that he had been involved in a previous altercation with deputies in a court holding area while awaiting a court appearance on July 12, 2004. As a result of that altercation,

Inmate [redacted] claimed his ribs were broken on the left side of his chest and he sustained a black eye, a cut lower lip and a scrape on his right shin. ICIB investigators could see slight bruising and discoloration to Inmate [redacted] right eyelid (refer to **IAB Exhibit B, figure 4**). His lower lip appeared to have a minor laceration. He also had an approximate four-inch abrasion on his right shin.

> **IAB Note:** The incident mentioned by Inmate [redacted] occurred on Monday, July 12, 2004, at approximately 0630 hours, while in the fourth floor lock-up of the Clara Shortridge-Foltz Criminal Justice Center (formerly known as the C.C.B., the Criminal Courts Building). The incident was documented under file #504-00266-4016-145. A copy of the report is **ICIB Exhibit B.**

ICIB investigators looked at Inmate [redacted] entire torso and specifically the areas he indicated he had been punched and kicked but saw no visible injury. There was no apparent swelling or discoloration. However, inmate [redacted] said his ribs were swollen and painful. Inmate [redacted] agreed that there were no visible injuries to his ribs.

Inmate [redacted] said Deputy [redacted] punched him on the right cheekbone, however, Sergeant Schram noted he could not see a visible injury.

[redacted], #[redacted], MCJ Inmate
<u>ICIB Re-Interview</u> - July 29, 2004

ICIB re-interviewed the inmate in the [redacted] Hospital Floor at MCJ and showed him a photocopy of a Visio diagram (**ICIB Exhibit P**) which depicts the main hallway and relevant portions of Module [redacted] He stated he and approximately four other inmates were staged in the main hallway on the opposite wall of Module [redacted] He reviewed the diagram and placed five "Xs" on the diagram depicting the approximate location he was standing when he was accused of spitting. Inmate [redacted] placed a circle around the "X " depicting his position in the transfer line. He printed "[redacted] next to his position.

He initially had difficulty understanding the Visio diagram. I showed Inmate [redacted] two pages of photographs (**ICIB Exhibit N**) of [redacted] Inmate [redacted] placed an "X" on the diagram against the north wall of Module [redacted] depicting the location he was taken to and assaulted by deputies. He also said he was taken to a holding cell and detained. The cell contained a toilet and sink. Inmate [redacted] placed an "X" on the diagram to indicate the location he was detained. Inmate [redacted] signed the bottom of the diagram (**ICIB Exhibit P**). He said he was handcuffed when he was taken to the main hallway of Men's Central Jail. Investigators told Inmate [redacted] that other inmates being declassified from Module [redacted] indicated they were not handcuffed while standing in the main hallway. Inmate [redacted] maintained that he was in handcuffs the entire time. He said he did not know if the other inmates were handcuffed.

When shown photographic show-up folders (**ICIB Exhibit K**), Inmate [redacted] viewed Folder #1 and said that he was unable to make an identification. He said the photograph in position #6 (photograph

of Deputy [redacted] looked like Deputy [redacted] but he was not certain. Inmate [redacted] then reviewed Folders #2 through #5 and was unable to make an identification from the individual folders. He initialed and signed each admonition form. The show-up admonition forms are **ICIB Exhibit Q**.

<u>Review of Video Tape Recording of Inmate [redacted] following incident</u> -

ICIB investigators obtained and reviewed a compact disc containing a video tape recording of Inmate [redacted]'s MCJ Clinic medical treatment and separate administrative investigation interviews with Sergeant [redacted] and Lieutenant William "Bill" Martin. The following summarizes that recording.

On Thursday, July 15, 2004, at approximately 1535 hours, Sergeant [redacted] began his interview of Inmate [redacted] regarding the use of force administrative investigation. Deputy [redacted] video tape recorded the process. The video recording depicts Inmate [redacted] being escorted by Deputy [redacted] Senior Deputy Lindenmayer and Sergeant [redacted] As the group stood in the Module [redacted] sallyport, Deputy [redacted] maintained control of Inmate [redacted] with his left hand as he unlocked and opened the main hallway door with his right hand. Deputy [redacted] began to open the door when Senior Lindenmayer reached across to assist opening the door. As Senior Lindenmayer pulled the door open, the corner of the door inadvertently struck Inmate [redacted] on the forehead.

Once in the MCJ Clinic, Inmate [redacted] was medically treated for the effects of O.C. spray. Jail Nurse Omar Hamilton, [redacted] asked Inmate [redacted] if he had any injuries. Inmate [redacted] stated:

> I had a cracked rib--right, and they came and hit me some more on my ribs. My jaw feels broken and they slammed my face--face down to the concrete--my head, I think I have a concussion or something. I was slapped like I was a bitch--they socked me in the mouth (right cheek)--closed fist socked me up--like four of 'em--Deputy [redacted] Deputy [redacted]-and Deputy [redacted]

[redacted] MCJ Inmate
<u>ICIB Interview</u> - July 21, 2004

ICIB investigators interviewed Inmate [redacted] MH/40, in the 2000 Floor Training Room. He told investigators he was transferred from [redacted] "A" Row on Thursday, July 15, 2004. He recalled he was not wearing handcuffs while awaiting transfer in the main hallway, with a group of other inmates. He said there was an escort team of deputies in the main hallway with them. Inmate [redacted] identified Inmate [redacted] from a photograph he was shown. He recalled Inmate [redacted] was complaining to the deputies about being declassified.

> **IAB Note:** Inmate [redacted] noticed that Inmate [redacted] had healing injuries on his face.

Inmate [redacted] said an "Oriental" deputy accused Inmate [redacted] of spitting and directed him to the opposite side of the hallway. The remaining inmates were ordered to face the wall and Inmate [redacted] did not see what happened. He heard Inmate [redacted] deny spitting. He did not recall overhearing Inmate [redacted] or the deputies swearing. He recalled Inmate [redacted] being handcuffed

and taken back into Module 1750 at the direction of one of the senior deputies. Inmate [redacted] recalled that Senior Gilbert appeared in the hallway shortly after the incident. He said another senior appeared, whose description matched that of Senior Lindenmayer.

[redacted] MCJ Inmate
<u>ICIB Interview</u> - July 29, 2004

ICIB investigators interviewed Inmate [redacted] 1750 at MCJ. He said he was housed in Module [redacted] "A" Row, Cell 25, on July 15, 2004. He recalled a group of inmates being transferred from "A" Row, when he heard someone screaming. He said it sounded as though the screaming was coming from the hallway close to "A" Row. Inmate [redacted] said that Inmate [redacted] was later returned to "A" Row and placed in a cell next to his. He said he has spoken with Inmate [redacted] about the incident. Inmate [redacted] said Inmate [redacted] told him that a deputy accused him of spitting and they argued. Inmate [redacted] told Inmate [redacted] that a deputy put him in a corner, took him to the ground, and began hitting him. [redacted] told [redacted] that he was punched on the back and on the face, slapped across the face, and called a "bitch." Inmate [redacted] told Inmate [redacted] that he heard someone say, "Let him burn," and that he was "pepper sprayed." Inmate [redacted] said he had not overheard deputies talking about the incident, nor had he heard any rumors.

[redacted] MCJ [redacted] Inmate
<u>ICIB Interview</u> - July 29, 2004

ICIB investigators interviewed Inmate [redacted] at 1750 at MCJ. He had been housed on "A" Row of [redacted] for the past six weeks and recalled an incident involving a "Black inmate" (Inmate [redacted] who was beaten by deputies at the end of the hall. He said that when the deputies "pepper sprayed" him ([redacted] the inmate was screaming that his eyes were burning. Inmate [redacted] said he could hear the inmate yell in pain as he was being punched. He said he could hear the actual punches as they impacted the inmate. Inmate [redacted] said he recognized the sounds as "fists." He added, "You could hear the punches. It sounded like he heard the inmate yell, "Why are you doing this to me? I'm handcuffed." He did not see Inmate [redacted] after the incident and did not know if he had visible injuries. Inmate [redacted] told Inmate [redacted] that the deputies punched him on the sides.

He was shown a photograph of a person (**ICIB Exhibit A**) he identified as an inmate who was housed in "A" Row in Cell #26. He did not know the inmate's name. He believed this was the same inmate ([redacted] who was involved in the altercation he heard.

[redacted] MCJ 3300 Inmate
<u>ICIB Interview</u> - July 29, 2004

ICIB investigators interviewed Inmate [redacted] Module [redacted] He was formerly housed in Module [redacted] "A" Row, Cell 4, when he heard a commotion involving an inmate and some deputies. He said he heard a lot of screaming. He said the screaming lasted about 10 to 20 seconds. He stood next to the bars of his cell and looked out. He saw deputies bring an inmate by the "A" Row gate. He said he saw the inmate standing outside of "A" Row and deputies screaming at the inmate. He could

not recall what the deputies were saying. He did not hear the inmate say anything or see him do anything to provoke the incident.

Inmate [redacted] said he saw that the inmate was handcuffed. He said he saw a deputy spray the inmate in the face with O.C. However, he said he could not identify the deputy who sprayed the inmate with O.C. Inmate [redacted] said he yelled his name and cell number to the inmate ([redacted] He was shown a photograph of an inmate ([redacted] **ICIB Exhibit A)** and he identified the inmate in the photograph as the same inmate involved in the incident.

He was then shown a Visio diagram and he said the incident began elsewhere and the deputies brought the inmate by the "A" Row gate. He placed an "X" on the Visio diagram, at the "A" Row gate, depicting the location he saw the deputies and the inmate **(ICIB Exhibit S)**. He last saw Inmate [redacted] on a jail bus and passed Inmate [redacted] his booking number. He said he did not initially recognize Inmate [redacted] on the bus, as he was "not all lumped up." Inmate [redacted] admitted that he did not see everything and did not see what, if anything, the inmate had done. When shown a photograph of an inmate (**ICIB Exhibit A**), he said the person in the photograph looked similar to the inmate ([redacted] he saw involved in the incident.

Inmate [redacted] said he requires eyeglasses and was not wearing glasses when he observed the incident. He said the inmate was standing straight up when he was sprayed. He said he only saw one deputy spray the inmate directly in the face. The inmate was taken to the ground by deputies. Inmate [redacted] then said, "If my memory serves me correct, I saw them (the deputies) hit him--while he was on the ground." He said he heard the inmate yelling that his jaw was broken. Inmate [redacted] said he heard the deputies yelling at the inmate to stop resisting.

[redacted] MCJ 3300 Inmate
<u>ICIB Interview</u> - July 29, 2004

ICIB investigators interviewed Inmate [redacted] Module 3300. He was previously housed on "A" Row in Cell 15 of Module [redacted] on July 15, 2004. He recalled seeing a "Black guy" (Inmate [redacted] walk out, and later heard someone screaming for help. He heard the deputies say, "Let it go. Let it go." Inmate [redacted] thought that the deputies were O.C. spraying the inmate, but was not sure. Inmate [redacted] said he could not see what occurred from his cell. When shown a photograph of an inmate **(ICIB Exhibit A)** whom he identified as "[redacted]" (Inmate [redacted] Inmate [redacted] did not know how Inmate [redacted] sustained the injuries that were visible in the photograph.

> **IAB Note:** Inmate [redacted] is a gang member of the 62nd Street East Coast Crips criminal street gang. His gang moniker is "[redacted]."

He stated that Inmate [redacted] told him that he was "socked and slapped" by deputies. Inmate [redacted] also told Inmate [redacted] that a deputy called him a "bitch," and related that he was struck on the head by a door.

Inmate [redacted] could not recall the date or time the incident occurred. He believed the inmate returned to the row shortly after the incident and appeared to have facial injuries.

SUBJECT INTERVIEWS

[redacted], Deputy Sheriff

Subject Deputy [redacted] was interviewed by the IAB investigator on August 8, 2005, at 1330 hours. He was represented by attorney Chuck Goldwasser and the interview was audio recorded. Subject [redacted] maintained his actions as he previously specified in his memorandum and denied the allegations of any further use of force by himself or other involved deputies. He could give no explanation why another deputy would make allegations that the incident unfolded in any other manner than he reported.

See Subject [redacted] interview transcription for details.

[redacted], Deputy Sheriff

Subject Deputy [redacted] was interviewed by the IAB investigator on August 8, 2005, at 1430 hours. He was represented by attorney Chuck Goldwasser and the interview was audio recorded. Subject [redacted] maintained his actions as he previously documented in his memorandum and denied the allegations of any further use of force by himself or other involved deputies. He said he had no idea why Deputy Touch would alleged he struck the inmate.

For additional information, see Subject [redacted] interview transcription for details.

[redacted], Deputy Sheriff

Subject Deputy [redacted] was interviewed by the IAB investigator on August 9, 2005, at 1330 hours. He was represented by attorney Greg Emerson and the interview was audio recorded. He denied the allegations. He could give no explanation why another deputy (Touch) or Inmate [redacted] would make allegations that the incident unfolded in any other manner than he reported.

See Subject [redacted]'s interview transcription for details.

[redacted], Deputy Sheriff

Subject Deputy [redacted] was interviewed by the IAB investigator on August 10, 2005, at 1330 hours. He was represented by attorney Richard Shinee and the interview was audio recorded. Subject [redacted] maintained that he did not use any force, nor see any used by other deputies. He acknowledged hearing the O.C. spray canisters spraying, but did not actually see them being used. He denied dragging the inmate by a leg but did acknowledge that although he did not recall with certainty, he may have said, "Let him fry," and other statements alleged by Inmate [redacted] during his conversation with him. He said he had no idea why Deputy Touch would allege he dragged the inmate.

For additional information, see Subject [redacted] interview transcription for details.

TOUCH, Sopheak, Deputy Sheriff

Subject Deputy Touch was interviewed by the IAB investigator on August 9, 2005, at 1430 hours. He was represented by attorney Ken Yuwiler and the interview was audio recorded. Deputy Touch maintained his allegations that additional, unnecessary force was used on Inmate [redacted], beyond that which deputies reported. He explained that he was intimidated by his position as a new, inexperienced deputy who was surrounded by numerous experienced deputies. This intimidation and peer pressure influenced him to go along with the under-reporting of force until he had misgivings about it on his return to work after his days off.

For additional information, see Subject Touch's interview transcription for details.

[redacted], Sergeant

Subject Sergeant [redacted] was interviewed by the IAB investigator on July 28, 2005, at 1130 hours. He was represented by attorney Greg Emerson and the interview was audio recorded. He explained how the post-incident reporting unfolded and acknowledged his inexperience may have contributed to his handling of it the way he did.

For additional information, see Subject [redacted] interview transcription for details.



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



February 9, 2006

Deputy Sopheak Touch, #[redacted]

Dear Deputy Touch:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of fifteen (15) days.

An investigation under File Number IAB 2125207, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/100.35, False Information in Records, on or about July 15, 2004, you knowingly entered inaccurate information into your memorandum and/or made false statements to the investigators when you said, and/or wrote, such things as, but not limited to, writing that you only used OC Spray on Inmate [redacted] and/or verbally stating that the only force you used was OC Spray on Inmate [redacted] and/or that Deputy [redacted] and you were the only ones who used OC Spray on Inmate [redacted]

2. That in violation of Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders (*specifically as it relates to Manual Section 5-09/430.00, Use of Force, Reporting and Review Procedures*), on or about July 15, 2004, you used force upon Inmate [redacted] when you grabbed and/or pulled Inmate [redacted] hair, and/or slapped Inmate [redacted] head with your open hand, and/or assisted in dragging Inmate [redacted] to the shower area, and then failed to notify your immediate supervisor regarding that force.

3. That in violation of Manual of Policy and Procedures Sections 3-01/025.10, Unreasonable Force; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders; and/or 3-01/050.10, Performance to Standards, on or about July 15, 2004, you used unreasonable force upon Inmate [redacted] when you grabbed and/or pulled Inmate [redacted] hair, and/or slapped Inmate [redacted] head with your open hand, and/or used OC Spray on [redacted] and/or assisted in dragging Inmate [redacted] to the shower area. You then failed to notify your immediate supervisor regarding that force, thus violating Manual Section 5-09/430.00, Use of Force, Reporting and Review Procedures.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

You may receive a copy of the material on which the discipline is based by contacting Angela Vargas of the Internal Affairs Bureau at (323) 890-5313, and arranging an appointment during the ten (10) day period in which you may respond.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

John H. Clark, Captain
Commander, Men's Central Jail

JHC:KM:av

c: Advocacy Unit
Employee Relations Unit
Sammy L. Jones, Chief, Custody Operations Division
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2125207)

LOS ANGELES COUNTY DISTRICT ATTORNEY **CHARGE EVALUATION WORKSHEET**	☐ Further investigation requested. ☐ Probation Violation in lieu of filed. ☒ Prosecution declined.	DA CASE NO. 25091899 POLICE CASE NO. (DR OR URN NO.) 404-00037-2003-441	Page 1 of 10 Date: February 11, 2005 DA OFFICE CODE J.S.I.D. 04-0911R

SUSPECT DATA

NO.	SUSPECT NAME	BKNG NO.	CHARGE	REASON
01	TOUCH, SOPHEAK	N.I.C.	PC149	B - Insufficient evidence
02	[redacted]	N.I.C.	PC149	B - Insufficient evidence
03	[redacted]	N.I.C.	PC149	B - Insufficient evidence
04	[redacted]	N.I.C.	PC149	B - Insufficient evidence

46-G

DESCRIPTION
SEE ATTACHED.

STEVE COOLEY District Attorney	COMPLAINT DEPUTY (PRINT) WILLIAM H. JOHNSON/ap	DEPUTY CODE 102750	COMPLAINT DEPUTY (SIGNATURE) William H. Johnson	REVIEWING DEPUTY

In submitting this matter for consideration of a complaint, written reports of substantially all available evidence (except as to the oral information, if any, purporting to have been given by me and which is fully and correctly stated above) have been submitted to the above-named Deputy (copies of which are attached hereto) except the following:

The disposition of this matter will be final unless the commanding officer requests reconsideration of the case, stating his reasons on the back of this form.

MAILED 02/24/05

OFFICER - SERGEANT RON W. SCHRAM

LASD - I C I B

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the allegations that Los Angeles County Sheriff's Deputies Sopheak Touch, #[redacted] #[redacted] #[redacted] and [redacted] #[redacted] assaulted [redacted] under color of authority in violation of Penal Code §149. For the reasons set forth below, this office declines to initiate criminal proceedings against Deputies Touch, [redacted] [redacted] and [redacted]

FACTUAL ANALYSIS

The following analysis is based upon reports prepared by the Los Angeles Sheriff's Department, Internal Criminal Investigation Bureau (ICIB), and submitted to this office by Sergeant Ron W. Schram on December 6, 2004. We did not consider compelled statements of deputies.

On July 15, 2004 at 4:00 p.m., Los Angeles County Men's Central Jail (MCJ) Inmate [redacted] was standing in a hallway with other inmates being moved from Module [redacted] a K-10[2] housing location, to general population. [redacted] had been classified as a K-10 "keep away" requiring special handling due to prior incidents where he was verbally belligerent, insubordinate, combative, assaultive toward deputies, and prone to inciting riots amongst fellow inmates.[3]

While waiting in line, [redacted] spit on the floor. As Deputy Touch told him not to spit on the floor, [redacted] looked at him and said, "Mother Fucker, I didn't spit on the floor." [redacted] refused to turn around and put his hands behind his back. He stood motionless and glared at Deputy Touch. [redacted] was handcuffed and escorted by Deputy Touch. During his escort, [redacted] jerked his body trying to break free of Deputy Touch's grasp. He refused to comply with commands to stop resisting and face the wall. As Deputy Touch lost his grip on him, [redacted] was pushed against the wall and then turned to face Deputy Touch in a threatening manner. At this point, Deputies Touch and [redacted] used their O.C. (Oleoresin Capsicum) spray canisters to spray [redacted] with short bursts of O.C. in his face. [redacted] was helped to his feet and escorted to a shower area. [redacted] alleged that he was hit, kicked, and slapped by various deputies during this incident.

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[1] [redacted] true name is "[redacted]"
[2] "K-10" is a special classification given inmates that receive special handling for the following reasons: danger to officers; dangerous mental health; high escape risk; or suicidal
[redacted]

46-H

Investigators interviewed [redacted] on July 15, July 19, and July 29, 2004. On July 15, 2004 as [redacted] was being led to MCJ's Infirmary to be treated for the O.C. spray, he was accidentally hit in the head by an opening door. Initially, [redacted] did not provide a statement to Sergeant [redacted] who conducted a preliminary investigation.[4] Jail Nurse Omar Hamilton asked [redacted] if he had any injuries. He responded, "I had a cracked rib—right, and they came and hit me some more on my ribs. My jaw feels broken, and they slammed my face—face down to the concrete. My head, I think I have a concussion or something. I was slapped like I was a bitch. They socked me in the mouth (right cheek)—closed fist socked me up—like four of them, Deputy [redacted] Deputy [redacted] and Deputy [redacted]."[5]

[redacted] told investigators that while awaiting transfer between modules and standing with other inmates, he was accused of spitting on the floor. He denied spitting, but admitted he was argumentative with deputies. He was told to face the wall and was assaulted by deputies and sprayed with O.C. spray. [redacted] claimed a Deputy "[redacted]" punched his right ribs, slapped his face, punched his face twice with a closed fist, and put a boot to his face.[6] After being hit, he was slammed to the ground and taken to an "isolated" location where he was further assaulted. Deputy [redacted] directed other deputies to spray [redacted] with O.C. spray. He was then dragged to a shower holding area where Deputy [redacted] said, "Let him fry." [redacted] denied resisting or assaulting the deputies and stated, "I remember Deputy [redacted] I'll never forget him. That's two 'Bs', don't forget. [redacted] slapped the shit out of me. He gave me five solid punches to the face."

On July 19 and July 29, 2004, ICIB investigators met with [redacted] He gave his true name and said "[redacted]" was an alias of his. When accused of spitting on the floor, [redacted] said, "I didn't spit, asshole!" He reiterated his prior allegations and embellished upon them by adding additional information. He claimed to have been punched by Deputy [redacted] and one other unidentified deputy. [redacted] said one deputy pulled his hair braids and another kicked him when he fell to the floor. He claimed a black mark on his shirt came from being kicked. ICIB investigators observed a small black mark on [redacted]'s t-shirt. [redacted] now recalled Deputy [redacted] saying, "Let *his ass* fry!" He recanted his earlier statement to Jail Nurse Hamilton by saying his rib injuries and black eye were caused by a previous incident involving other deputies occurring on July 12, 2004 at the Clara Shortridge-Foltz Criminal Justice Center (CSFCJC). Yet, [redacted] medical records show that on July 8, 2004, he told a different story to Registered Nurse Nancy Bones-Rosario. [redacted] said he was suffering from pain to his right rib cage, difficulty in breathing, and migraine headaches resulting from an altercation with other

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4 Inmate Injury Report, Page 2 of 2, dated July 15, 2004.

5 In the July 12, 2004 incident report, [redacted] admits his rib injuries and blackened right eye were from prior incidents.

6 Incident reports for July 15, 2004 show no Deputy [redacted] present; however, Deputy [redacted] "[redacted]" was present during the incident.

inmates on July 7, 2004. ICIB investigators observed slight bruising and discoloration to [redacted] right eyelid. His lower lip had a minor laceration, and his right shin showed a four (4) inch abrasion.[7] No swelling, discoloration, or visible injuries were seen on [redacted] torso where he claimed to have been punched and kicked. X-rays of [redacted] showed no abnormalities.[8] On January 29, 2004, ICIB investigators showed [redacted] five photo line-ups. He was unable to identify any of the deputies involved in the incident of July 15, 2004.

[redacted]

ICIB investigators spoke with Sergeant [redacted] on July 19, 2004. He conducted the initial preliminary "use of force" investigation the day of the incident. Sergeant [redacted] was told that [redacted] was resistive and deputies deployed O.C. spray. He examined [redacted] and found no injuries. Deputy Touch's initial account given to Sergeant [redacted] did not detail any assault occurring on [redacted] Deputy Touch stated that he saw [redacted] spit in the hallway and was cursed by [redacted] when he confronted him. [redacted] continued his abusive behavior, causing several deputies to assist Deputy Touch. As Deputy Touch escorted [redacted] in handcuffs toward "A" row of Module [redacted] [redacted] resisted him by moving back and forth, breaking free of Deputy Touch's grasp, turning, and facing him. At that point, Deputies Touch and [redacted] used their O.C. spray canisters on [redacted] [redacted] fell to his knees, was picked-up, and placed in a shower room.

On July 18, 2004 during a casual conversation with Sergeant [redacted] Deputy Touch said the use of force reports for the July 15, 2004 incident were incorrect, and that Knight had been assaulted by Deputies [redacted] and [redacted] The deputies punched [redacted] all over his body except his face. [redacted] was punched on his back, in his ribs, and on his arms. Deputy Touch admitted to getting "caught-up in the moment," slapping [redacted] on the back of his head, and pulling his hair only after feeling "encouraged" to do so by the looks of the other deputies. Sergeant [redacted] found no corroboration of Deputy Touch's admission in the form of physical injuries to [redacted] After their conversation, Sergeant [redacted] did tell Deputy Touch not to speak to anyone else concerning the assault saying they would speak again on July 19, 2004.

ICIB investigators contacted Deputy Touch on January 19, 2004. He was advised he was being interviewed as a subject concerning the incident on July 15, 2004. Deputy Touch

[7] The abrasion to [redacted] right shin is "unexplained" as he claimed no assault or injury to his shin.

[8] [redacted] MCJ medical records.

46-J

then gave a voluntary statement. He said he saw [redacted] spit on the hallway floor. Deputies [redacted] and [redacted], Jr., assisted him in controlling and handcuffing [redacted] He confirmed that only O.C. spray was used on [redacted] and had no knowledge of additional force being used. When confronted with Sergeant [redacted]s statement, Deputy Touch said, "You want to know the truth sir? Since you know, I will tell you the truth."

Deputy Touch clarified that he provided the initial story to investigators based upon Sergeant [redacted]s order not to speak about the assault to anyone. He admitted having difficulty sleeping and regretted his involvement in the assault. After he handcuffed [redacted], the situation was completely under control. That is when some deputies dragged [redacted] down the hallway to Module [redacted] where they "started to beat the shit out of him, okay started to beat the shit out of him." Deputy Touch said he was not part of the assault, merely standing back and watching it. He felt "peer pressure" to get involved when the deputies looked at him. At that point, he grabbed the top of [redacted]s head, pulled his braided hair and head back, and slapped the right side of his face three to four times with his right hand. Then, Deputies Touch, [redacted] and [redacted] sprayed [redacted] with their O.C. canisters. Deputy Touch did not see anyone kick [redacted]

After being sprayed with O.C. spray, [redacted] was dragged by Deputies Touch and [redacted] into a shower holding cell. Earlier during his shift on July 19, 2004, Deputy Touch was approached by Deputy [redacted] who told him to "stick with the story" and that ICIB investigators were presently at the facility conducting interviews regarding the incident with [redacted] According to Deputy Touch, Deputy [redacted] came up with "the story" they each would tell supervisors.[9] [redacted] was handcuffed throughout the incident. Deputy Touch did not see any visible injuries on [redacted] after the assault. [redacted] face was very red from the O.C. spray. As for the reason why he did not tell the truth initially, Deputy Touch said he was confused and did not know what to do. When shown photo line-ups of the deputies involved, Deputy Touch made a "positive" identification of Deputy [redacted] a partial identification of Deputy [redacted] and no identifications of other deputies.

Deputy [redacted] voluntarily spoke with ICIB investigators on July 20, 2004, after being advised he was a subject in a criminal investigation regarding the July 15, 2004 assault on [redacted] He saw Deputy Touch and other deputies involved in an argument with Knight in the main hallway. With three or four other inmates present, [redacted] became loud and created a disturbance. [redacted] was verbally hostile and refused to follow Deputy Touch's orders. Deputy [redacted] then assisted Deputy Touch in guiding [redacted] to the wall to be handcuffed. While being escorted to Module 1700, he continued to "mouth-off" even after being handcuffed. Deputy [redacted] described

[9] The "story" was formulated as Deputies Touch, [redacted] and [redacted] reported to Senior Deputy Leonard Lindenmayer. Deputy [redacted] reported using O.C. spray on [redacted] because of his uncooperative behavior.

[redacted] actions as "resistive," in that he attempted to break free of the deputies' control by violently shaking, twisting, and turning his body, arms, and feet. [redacted] ignored several verbal commands by Deputy [redacted] to stop struggling and continued to resist the deputies. He saw Deputies Touch and [redacted] spray [redacted] with their O.C. canisters. Deputy [redacted] did not recall Deputy [redacted] being involved in the incident.

Deputy [redacted] immediately notified Deputy Leonard Lindenmayer and Sergeant Allyn Martin of the incident and all forced used against [redacted] He did not use nor witness any other force being used on [redacted] other than what he described in his report. He reiterated this information to Sergeant [redacted] Deputy [redacted] denied slapping or striking Knight. He also denied pulling [redacted] hair or spraying him with O.C. spray. Deputy [redacted] said he did not witness Deputy Touch strike or slap [redacted] or pull his hair. Deputies [redacted] and [redacted] did not spray [redacted] with O.C. spray.

Deputy [redacted] was advised that a deputy had informed investigators that he, along with Deputies Touch, [redacted] and [redacted] Jr., had assaulted [redacted] Deputy [redacted] denied committing such an assault or witnessing it. He could not explain why a deputy would lie about something like that. He suggested to the handling deputies that [redacted] should be charged with "obstructing and resisting" a peace officer. Deputy [redacted] denied collaborating with Deputies Touch, [redacted] and [redacted] about what their use of force reports would say. He identified his use of force report and confirmed that it was factually correct.

A "pre-text" telephone call was made my Deputy Touch to Deputy [redacted] on July 20, 2004 under monitored conditions by ICIB investigators. Deputy [redacted] made no incriminating admissions or statements.

On July 20, 2004, ICIB investigators interviewed Deputy [redacted] after advising him that he was a "witness" related to their investigation of the July 15, 2004 incident. He stated that as he was rounding the corner by the Module [redacted] Control Booth, he saw [redacted] whom he recognized, "throwing" his shoulders and being "irate." [redacted] fell to the floor of his own volition and "flopped around." He told the deputies not to engage [redacted] but to spray him with O.C. spray since he was handcuffed and resistive. Deputy [redacted] did not see who sprayed [redacted] However, the spray burst(s) were no longer than three (3) seconds in duration. Deputy [redacted] denied dragging [redacted] to a shower holding cell or touching him. Deputy [redacted] shoulder injury made it impossible for him to do anything physical.

Deputy [redacted] stated that Deputies Touch, [redacted] and [redacted] were the ones who used force, but he did not know what force each used. He confirmed Deputy [redacted] was present. Deputy [redacted] was uncertain if he said, "Let him fry" or "Let him cook." If he

had said it, his intent was to allow time for [redacted] to calm down. After first denying it, Deputy [redacted] said he may have said something to the effect of, "Shut the fuck up bitch," after talking to [redacted] for 10 minutes, during which time [redacted] was crying and "f-ing me." He denied touching, punching, or slapping [redacted] and said the allegation of his involvement was untrue. Deputy [redacted] did not write a use of force report, because he did not witness force being used upon [redacted]

ICIB investigators spoke with Deputy Aaron Rodriguez on July 20, 2004 as a witness to the incident of July 15, 2004. Deputy Rodriguez was in the main hallway escorting inmates with Deputy [redacted] and possibly Deputy [redacted] when he saw Deputy Touch confront [redacted] about spitting on the floor. [redacted] called Deputy Touch a "motherfucker" and denied spitting. Deputies Touch, [redacted] and [redacted] took [redacted] into Module [redacted] Deputy Rodriguez continued escorting inmates to Module [redacted] and did not witness the use of force incident involving [redacted] and the deputies.

Senior Deputy Leonard Lindenmayer spoke with ICIB investigators on July 21, 2004. He was assigned as the supervising senior deputy in Modules [redacted] and [redacted] He confirmed that [redacted] was in a group of inmates being escorted to Module [redacted] on July 15, 2004. While seated in the control booth with Deputy [redacted] he saw [redacted] precede four deputies into the sally port of Module [redacted] [redacted] was handcuffed, and Deputy Touch had control of the handcuffs. [redacted] was escorted toward Module [redacted] in a "rapid" manner. Deputy [redacted] left the control booth and followed the deputies, while Deputy Lindenmayer remained in the control booth losing sight of [redacted] and the deputies for approximately 25 seconds during which time he heard a painful scream. He began to call for a sergeant when Deputies Touch, [redacted] [redacted] and [redacted] returned. He smelled the odor of O.C. spray and asked the deputies what had happened. Deputy Lindenmayer described their appearance as "deer in the headlights" as they were without expression and non-responsive. Then, Deputy [redacted] said that he had used O.C. spray on [redacted] None of the other deputies reported using force at that time.

When Deputy Lindenmayer became aware of [redacted] allegation of assault, he directed Deputy [redacted] to notify Sergeant Martin, who asked Sergeant [redacted] to respond and conduct the use of force investigation. [redacted] told him Deputies Touch, [redacted] and [redacted] struck him in the ribs. Also, that he was "pepper" sprayed, suffered a broken jaw, and was "bitch-slapped" by Deputy [redacted] Deputy Lindenmayer noted the right side of [redacted] face was swollen. He did not see any injuries to [redacted] torso. He contacted the deputies involved a second time in the control booth and asked if any one of them hit or kicked [redacted] All of them said, "No." Two deputies admitted using O.C. spray on [redacted] but he was not sure of the second deputy's identity.

While he was on duty as floor supervisor, Deputy Lindenmayer was contacted by Deputy Touch on July 19, 2004. Appearing to be very uncomfortable, he said, "Senior, I'm new.

You know what's happening." Deputy Touch then referenced "dragging" [redacted] when they moved him. Deputy Lindenmayer reminded Deputy Touch that the use of force reports said that [redacted] was assisted to his feet and walked to a holding cell. Deputy Touch acknowledged that was correct. When asked how [redacted] was moved, Deputy Touch said they "escorted him." They had no further conversation regarding the incident. Deputy Lindenmayer reviewed the use of force reports and said the information contained in them was consistent with what the involved deputies reported to him.

ICIB investigators interviewed Deputies Robert Frieberg and Jonathan Jones on July 21, 2004. Neither deputy saw the actual use of force used upon [redacted] Deputy Frieberg was asked by Senior Deputy Lindenmayer to help Deputy Touch prepare his use of force report. The O.C. spraying was the only use of force related to him. Deputy Jones heard screaming coming from "A" Row and smelled O.C. spray in the air. He ran over to "A" Row and saw [redacted] lying face down on the floor, handcuffed and yelling. He did not recall what [redacted] was yelling. Deputy Jones saw Deputy [redacted] in the control booth at one point during the incident.

On July 29, 2004, Deputy William Gilbert told ICIB investigators he observed [redacted] giving a deputy a "difficult time" on July 15, 2004. During the time that he observed the deputies handling [redacted] Deputy Gilbert did not witness any force or inappropriate conduct used by the deputies toward [redacted] as they escorted him.

On July 22, 2004, both Deputies [redacted] and [redacted] declined to give voluntary statements to ICIB investigators regarding their participation in the July 15, 2004 incident involving [redacted]

ICIB investigators interviewed [redacted] fellow inmates that witnessed the July 15, 2004 incident. Inmate [redacted] identified a photograph of [redacted] and recalled him complaining to deputies about being de-classified. [redacted] was in the group of inmates along with [redacted] He noticed that [redacted] had "healing" injuries on his face. An "Oriental" deputy accused [redacted] of spitting and directed [redacted] to the opposite side of the hallway. [redacted] denied the allegation. Along with the other inmates, [redacted] was ordered to face the wall and did not see what happened after turning toward the wall. He did not hear [redacted] or the deputies swearing. [redacted] recalled [redacted] being handcuffed and being escorted back to Module [redacted]

Inmate [redacted] was housed in Module [redacted] on July 15, 2004. He heard someone screaming, sounding as though it was coming from "A" Row. Later, [redacted] was returned to "A" Row and placed in a cell next to [redacted] then told [redacted] that after being placed in a corner and taken to the ground, he was punched on his back and in his face, slapped across his face, and called a "bitch." [redacted] claimed he heard someone say, "Let him burn" and was "pepper-sprayed."

46-N

Inmate [redacted] was housed in Module [redacted] "A" Row on July 15, 2004. He recalled [redacted] screaming that his eyes were burned after being "pepper-sprayed." He heard [redacted] yelling in pain as he was being punched. Although he did not see the use of force, [redacted] claimed he could hear the impact of "fists" upon [redacted] as he was being beaten. He said, "You could hear the punches. It sounded like he was being hit hard." [redacted] estimated the incident lasted 15 to 20 seconds, stopped briefly, and then started-up again. He heard [redacted] say, "Why are you doing this to me? I'm handcuffed." [redacted] identified a photograph of [redacted]

Inmate [redacted] was housed in Module [redacted] "A" Row, Cell 4 on July 15, 2004. He identified a photograph of [redacted] as being the inmate involved in the incident. [redacted] heard a commotion involving [redacted] and some deputies. He heard a lot of screaming, which lasted 10 to 20 seconds. [redacted] saw deputies bring [redacted] by the "A" Row gate. [redacted] was handcuffed, and the deputies were screaming at him. He saw a deputy spray [redacted] with O.C. spray.

Inmate [redacted] was housed in Module [redacted] "A" Row, Cell 15 on July 15, 2004. He identified a photograph of [redacted] whom he called "[redacted]"[10] He recalled seeing [redacted] walking followed by someone screaming for help. He could not see what occurred from his cell. He heard deputies say, "Let it go. Let it go." He was unsure if [redacted] was sprayed with O.C. spray. [redacted] told [redacted] that he was "socked and slapped" by deputies, and that one of them called him a "bitch."

CONCLUSION

Based upon the facts of this case, insufficient credible evidence exists to prove beyond a reasonable doubt that Deputies Sopheak Touch, [redacted] and [redacted] committed an assault under color of authority upon [redacted]

Inmate [redacted] credibility is greatly diminished by his criminal history of [redacted] criminal street gang, his inconsistent statements, and lack of corroborative physical injuries. His custodial record while in MCJ shows numerous instances of misbehavior, including resisting and obstructing deputies, belligerency, combativeness, inciting other inmates to riot, and assaulting deputies. [redacted] was given a special handling classification of "K-10," which the deputies were well aware of. When questioned by Sergeant [redacted] concerning the July 15, 2004 incident, [redacted] did not provide a statement. Not until he was being examined by medical personnel did he claim injuries from the assault. Yet, three days before the assault on July 12, 2004,

[10] [redacted] is a member of the [redacted] criminal street gang. His moniker is "[redacted]"

[redacted] told other deputies that his injuries were pre-existing and a result of prior confrontations with other deputies and inmates. [redacted] misidentified one of the involved deputies by name and failed to identify any of the involved deputies when shown photographic line-ups. [redacted] did not have physical injuries corroborating his allegation. His facial injuries were consistent with having been sprayed with O.C. spray.

Deputies [redacted] and [redacted] denied [redacted] allegation of assault. Their statements are consistent with the original use of force reports prepared by Deputies Touch, [redacted] [redacted] and [redacted] Other than the deputies involved, there were no eyewitnesses to the incident. Other non-involved deputy and inmate witnesses only "heard" the incident or saw its aftermath, but not the actual assault.

Deputy Touch has made multiple inconsistent statements. He initially told his supervisors and prepared a use of force report stating that the only force used on [redacted] was the spraying of O.C. spray. His report was consistent with the reports of Deputies [redacted] and [redacted] Three days later on July 18, 2004, Deputy Touch recanted his initial statement and formal written report and told Sergeant [redacted] that [redacted] was kicked and punched by Deputies [redacted] [redacted] and [redacted] He admitted to slapping [redacted] face and pulling his hair. When ICIB investigators initially spoke with Deputy Touch on July 19, 2004, he reaffirmed his initial statement that no "use of force" other than O.C. spray was used on [redacted] during the incident on July 15, 2004. When confronted with his inconsistent statement to Sergeant [redacted] on July 18, 2004, Deputy Touch again recanted his first statement and reaffirmed his second statement that he and the other deputies had assaulted [redacted]

Penal Code §835a states in pertinent part, "A peace officer…may use reasonable force to effect arrest, to prevent escape, or to overcome resistance. A peace officer…need not retreat or desist from his efforts by reason of the resistance…of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to…overcome resistance." If a jury were to believe that Deputies Touch, [redacted] [redacted] and [redacted] did strike, punch, kick, and slap [redacted] they may reasonably conclude that the deputies' use of force was "reasonable" given [redacted] history of misbehavior, his present combativeness, and propensity for violence even though he was handcuffed.

Therefore, we decline to initiate criminal proceedings against Deputies Sopheak Touch, [redacted] [redacted] and [redacted] We are closing our file, and will take no futher action in this matter.

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EMPLOYEE RELATIONS

SETTLEMENT AGREEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy Sopheak Touch, Employee No. [redacted] hereinafter referred to as "Grievant."

The Department and Grievant are parties to this dispute and desire to settle all issues involved in the Letter of Intent dated February 9, 2006, (IAB No. 2125207) upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Grievant for and in consideration of the mutual covenants contained herein, agree as follows:

1. The Department will, upon execution of this Agreement, reduce the intended fifteen (15) day suspension to a five (5) day suspension. The Letter of Imposition shall contain the same charges as the Letter of Intent.

2. The Grievant agrees to withdraw his grievance and waive any and all further administrative or judicial remedies with respect to the Letter of Imposition and the modified discipline.

3. The parties further agree that this Settlement Agreement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

4. In consideration of the terms and conditions set forth herein, Grievant agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Grievant concerning the subject matter of the grievance referred to herein.

5. The Grievant further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

[redacted]

6. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this Agreement.

7. The parties agree that the foregoing comprises the entire Agreement between the parties and that there have been no other promises made by any party. Any modification of this Agreement must be in writing.

I have read the foregoing Settlement Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

For the Sheriff's Department:

Date: 5/1/06

Sopheak Touch, Deputy

Date: 5/1/06

John Clark, Captain



LEROY D. BACA, SHERIFF

County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



June 1, 2006

Deputy Sopheak Touch, #[redacted]

Dear Deputy Touch:

On February 9, 2006, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2125207. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. After reviewing the response submitted to support your position, the Department executives have amended the recommended discipline.

You are hereby notified that pursuant to a settlement agreement, you were suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of five (5) days effective May 21, 2006 through May 25, 2006

An investigation under File Number IAB 2125207, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/100.35, False Information in Records, on or about July 15, 2004, you knowingly entered inaccurate information into your memorandum and/or made false statements to the investigators when you said, and/or wrote, such things as, but not limited to, writing that you only used OC Spray on Inmate [redacted] and/or verbally stating that the only force you used was OC Spray on Inmate [redacted] and/or that Deputy [redacted] and you were the only ones who used OC Spray on Inmate [redacted]

2. That in violation of Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders (*specifically as it relates to Manual Section 5-09/430.00, Use of Force, Reporting*

and Review Procedures), on or about July 15, 2004, you used force upon Inmate [redacted] when you grabbed and/or pulled Inmate [redacted] hair, and/or slapped Inmate [redacted] head with your open hand, and/or assisted in dragging Inmate [redacted] to the shower area, and then failed to notify your immediate supervisor regarding that force.

3. That in violation of Manual of Policy and Procedures Sections 3-01/025.10, Unreasonable Force; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders; and/or 3-01/050.10, Performance to Standards, on or about July 15, 2004, you used unreasonable force upon Inmate [redacted] when you grabbed and/or pulled Inmate [redacted] hair, and/or slapped Inmate [redacted] head with your open hand, and/or used OC Spray on [redacted] and/or assisted in dragging Inmate [redacted] to the shower area. You then failed to notify your immediate supervisor regarding that force, thus violating Manual Section 5-09/430.00, Use of Force, Reporting and Review Procedures.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

John H. Clark, Captain
Commander, Men's Central Jail

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

JHC:KM:tm

c: Advocacy Unit
Sammy L. Jones, Chief, Custody Operations Division
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Century Regional Detention Facility (CRDF)/unit Personnel File